

Congressional Record.

PROCEEDINGS AND DEBATES OF THE SIXTY-FIFTH CONGRESS THIRD SESSION.

SENATE.

MONDAY, January 27, 1919.

The Chaplain, Rev. Forrest J. Prettyman, D. D., offered the following prayer:

Almighty God, our daily task begins with thoughts of Thee. Our hearts arise to Thy throne as we face the dread responsibilities of this hour. We ask the divine guidance in every disposition of our hearts and every faculty of our minds, that our whole spirit may be given up to God to work out His divine plan in us as a Nation. Thou hast dealt with us more wonderfully than Thou has dealt with any other people. Thou hast laid upon us an immeasurable debt of gratitude to Thee for Thy kindness and for all Thy goodness. Help us to respond with truthful, glad, and willing hearts to Thine own call for service. We ask for Christ's sake. Amen.

The Secretary proceeded to read the Journal of the proceedings of the legislative day of Monday, January 20, 1919, when, on request of Mr. KING and by unanimous consent, the further reading was dispensed with, and the Journal was approved.

COUNCIL OF NATIONAL DEFENSE (S. DOC. NO. 347).

The VICE PRESIDENT laid before the Senate a communication from the Council of National Defense transmitting, in response to a resolution of December 15, 1918, a report of all money received and disbursed, together with liabilities and available balances up to December 31, 1918, which, with the accompanying papers, was ordered to lie on the table and be printed.

WAR TRADE BOARD (S. DOC. NO. 346).

The VICE PRESIDENT laid before the Senate a communication from the vice chairman of the War Trade Board transmitting, in response to a resolution of December 15, 1918, a report of all money received and disbursed, together with liabilities and available balances up to and including December 31, 1918, which, with the accompanying paper, was ordered to lie on the table and be printed.

WITHDRAWAL OF PUBLIC LANDS (S. DOC. NO. 1703).

The VICE PRESIDENT laid before the Senate a communication from the Secretary of the Interior transmitting, pursuant to law, a report showing all withdrawals of public lands from December 1, 1917, to November 30, 1918, which, with the accompanying paper, was referred to the Committee on Public Lands and ordered to be printed.

EMPLOYEES OF WAR DEPARTMENT (S. DOC. NO. 348).

The VICE PRESIDENT laid before the Senate a communication from the Secretary of War, transmitting, in response to a resolution of the 18th instant, a report relative to applications for reinstatement of certain civil-service employees of the War Department after discharge from the military service, which was referred to the Committee on Military Affairs and ordered to be printed.

GOVERNMENT EMPLOYEES.

The VICE PRESIDENT laid before the Senate communications from the Acting Secretary of State (S. Doc. No. 359), the Secretary of War (S. Doc. No. 356), the Secretary of Agriculture (S. Doc. No. 351), the Secretary of the Treasury (S. Doc. No. 352), the Secretary of Labor (S. Doc. No. 353), the Secretary of the Interior (S. Doc. No. 358), the Postmaster General (S. Doc. No. 353), the Acting United States Food Administrator (S. Doc. No. 354), the United States Fuel Administrator (S. Doc. No. 357), and the Chairman of the War Trade Board (S. Doc. No. 349), transmitting, in response to a resolution of December 23, 1918, a list showing the number of employees in their respective departments on January 15, 1919, and the number discharged during the previous two weeks, which were ordered to lie on the table and be printed.

REPORT OF COMPTROLLER OF THE CURRENCY.

The VICE PRESIDENT laid before the Senate the annual report of the Comptroller of the Currency for the year 1918, which was referred to the Committee on Banking and Currency.

GEORGETOWN BARGE, DOCK, ELEVATOR & RAILROAD CO.

The VICE PRESIDENT laid before the Senate the annual report of the Georgetown Barge, Dock, Elevator & Railroad Co. for the year 1918, which was referred to the Committee on the District of Columbia and ordered to be printed.

NATIONAL PROHIBITION.

The VICE PRESIDENT. The Chair lays before the Senate resolutions adopted by the Legislatures of the States of Wisconsin, Arkansas, Florida, North Carolina, Oregon, Mississippi, Indiana, Oklahoma, New Hampshire, Illinois, Idaho, Minnesota, Wyoming, Washington, Colorado, Nebraska, and West Virginia, ratifying the proposed prohibition amendment to the Constitution of the United States, which will be placed on the files of the Senate.

WOMAN SUFFRAGE.

The VICE PRESIDENT. The Chair lays before the Senate resolutions adopted by the States of California, Washington, Nebraska, Oregon, Kansas, and Utah, petitioning Congress to pass the woman suffrage amendment. The resolutions will lie on the table and be printed in the RECORD.

The resolutions are as follows:

UNITED STATES OF AMERICA, STATE OF WASHINGTON, DEPARTMENT OF STATE.

To all to whom these presents shall come:

I, I. M. Howell, secretary of state of the State of Washington and custodian of the seal of said State, do hereby certify that I have carefully compared the annexed copy of senate joint memorial No. 1 with the original copy of said senate joint memorial No. 1, now on file in this office, and find the same to be a full, true, and correct copy of said original, and of the whole thereof, together with all official indorsements thereon.

In testimony whereof I have hereunto set my hand and affixed hereto the seal of the State of Washington. Done at the capital, at Olympia, this 15th day of January, A. D. 1919.

[SEAL.]

I. M. HOWELL,
Secretary of State.
By J. GRANT HINKLE,
Assistant Secretary of State.

Senate joint memorial 1.

To the PRESIDENT AND THE CONGRESS OF THE UNITED STATES:

We, the Senate and the House of Representatives of the State of Washington, memorialize your honorable body to submit to the States for ratification the amendment now pending granting to the women of the United States the elective franchise.

Passed the senate January 13, 1919.

LOUIS F. HART, President.

Passed the house January 13, 1919.

FRED A. ADAMS, Speaker.

STATE OF KANSAS, DEPARTMENT OF STATE,

To all to whom these presents shall come, greeting:

I, L. J. Pettijohn, secretary of state of the State of Kansas, do hereby certify that the following and hereto attached is a true copy of house concurrent resolution 4, the original of which is now on file and a matter of record in this office.

In testimony whereof I hereto set my hand and cause to be affixed my official seal.

Done at the city of Topeka, this 22d day of January, A. D. 1919.

[SEAL.]

L. J. PETTIJOHN,
Secretary of State.

House concurrent resolution 4.

Whereas there is now pending in the Senate of the United States a constitutional amendment providing for national woman suffrage; and

Whereas it is an acknowledged fact that the enfranchisement of the women of Kansas has worked satisfactorily and tended toward better government in this State; and

Whereas equality and justice to all people for which the nations of the world have been struggling and for which the great war has been waged, requires the granting of suffrage to American women who equally with the men of this country have borne the burdens of the war and have loyally and ungrudgingly given their sons and their personal services that liberty might live and the world be made free to the end that our own Government might not perish: Therefore

Resolved by the Senate and House of Representatives of the State of Kansas, That the Senate of the United States is most earnestly requested to without delay pass the Federal amendment giving the women of the United States full suffrage.

I hereby certify that the above concurrent resolution originated in the house, and passed that body January 15, 1919.

W. P. LAMBERTSON,
Speaker of the House.
CLARENCE W. MILLER,
Chief Clerk of the House.

Passed the senate January 20, 1919.

CHAS. S. HUFFMAN,
President of the Senate.
EMMET D. GEORGE,
Secretary of the Senate.

Approved January 22, 1919.

HENRY J. ALLEN,
Governor.

STATE OF UTAH, EXECUTIVE DEPARTMENT,
SECRETARY OF STATE'S OFFICE.

I, Harden Bennion, secretary of state of the State of Utah, do hereby certify that the attached is a full, true, and correct copy of a memorial to the Congress of the United States, petitioning the Government to pass the Federal suffrage amendment. Adopted by the Legislature of the State of Utah, as appears on file in my office.

In witness whereof, I have hereunto set my hand and affixed the great seal of the State of Utah this 18th day of January, 1919.

HARDEN BENNION,
Secretary of State.

Senate memorial 1.

A memorial to the Congress of the United States, petitioning the Government to pass the Federal suffrage amendment.

To the Senate and House of Representatives of the United States in Congress assembled:

Your memorialists, the governor and Legislature of the State of Utah, respectfully represent that:

Whereas the Federal amendment to grant the right of suffrage to women equally with men has been before the Congress of the United States for more than 40 years; and

Whereas the women of the nonsuffrage States feel that the time is come when the Congress should give favorable consideration to this measure of justice to one-half the citizens of these United States.

Now, therefore, the governor and the Legislature of the State of Utah respectfully petition that the said suffrage amendment receive immediate and favorable consideration before the Sixty-fifth session of Congress adjourns.

The foregoing senate memorial was publicly read by title and immediately thereafter signed by the president of the senate, in the presence of the house over which he presides, and the fact of such signing duly entered upon the journal this 16th day of January, 1919.

J. W. FUNK,
President of the Senate.

Attest:

ADAM L. PETERSON,
Secretary of Senate.

The foregoing senate memorial was publicly read by title and immediately thereafter signed by the speaker of the house in the presence of the house over which he presides, and the fact of such signing duly entered upon the journal this 16th day of January, 1919.

CHARLES C. RICHARDS,
Speaker of the House.

Attest:

HUGO B. ANDERSON,
Chief Clerk of House.

Received from the senate this 17th day of January, 1919. Approved January 18, 1919.

SIMON BAMBERGER, *Governor.*

Received from the governor and filed in the office of the secretary of state this 18th day of January, 1919.

HARDEN BENNION,
Secretary of State.

Senate joint memorial 1.

To the honorable Senate of the United States of America in Congress assembled:

Your memorialists, the Legislative Assembly of the State of Oregon respectfully represent that—

Whereas a measure providing for the submission of a constitutional amendment granting equal suffrage is now pending before the Senate of the United States; and

Whereas equal suffrage was adopted in Oregon in November, 1912, and has during its six years of operation proved a complete success in every particular: Therefore be it

Resolved by the Senate of Oregon (the House of Representatives concurring), That we do heartily indorse equal suffrage and pronounce it an unqualified benefit and success, and we do respectfully request and petition the United States Senate to take favorable and immediate action on the measure now pending before it providing for the submission to the several States of a constitutional amendment granting equal suffrage throughout the United States, and we do urgently petition the members of the Oregon delegation to use their best efforts toward securing the adoption thereof; be it further

Resolved, That a copy of this resolution be transmitted by the chief clerk of the Oregon Senate to the President and Vice President of the United States and to each Senator and Representative from Oregon in the United States Congress.

Adopted by the house January 14, 1919.

SEYMOUR JONES,
Speaker of the House.

Adopted by the senate January 14, 1919.

W. J. VINTON,
President of the Senate.

Senate file 4.

A joint and concurrent resolution relating to the woman suffrage Federal amendment now pending in the United States Senate.

Be it resolved by the Senate of the State of Nebraska (the House of Representatives concurring)

SECTION 1. That the Senate and the House of Representatives of the State of Nebraska hereby memorialize the Senate of the United States

without delay to pass and submit to the States for approval or rejection the pending woman suffrage Federal amendment.

SEC. 2. That the Senate and the House of Representatives of the State of Nebraska hereby request Senator GILBERT M. HITCHCOCK, of Nebraska, to vote in favor of the submission to the State of said woman suffrage Federal amendment.

SEC. 3. That copies of this resolution shall be sent by the secretary of state to the Presiding Officer of the Senate of the United States and to Senator GILBERT M. HITCHCOCK, of Nebraska.

P. A. BARROWS,
President of the Senate.

Attest:

CLYDE H. BARNARD,
Secretary of the Senate.
DWIGHT S. DALBEY,
Speaker of the House.

Attest:

WILL S. HITCHCOCK,
Chief Clerk of the House.

Approved January 17, 1919, 11.15 o'clock a. m.

SAMUEL R. MCKELVIE,
Governor.

STATE OF NEBRASKA, ss:

This is to certify that the within bill, senate file No. 4, originated in the senate and passed the legislature at the thirty-seventh session on the 17th day of January, 1919.

CLYDE H. BARNARD,
Secretary of the Senate.

STATE OF NEBRASKA, ss:

I hereby certify that the above and foregoing joint and concurrent resolution, senate file No. 4, is a correct copy of the same now on file in my office.

D. M. AMSBERRY,
Secretary of State.

SACRAMENTO, CAL., January 26, 1919.

HON. THOMAS R. MARSHALL,
President of the United States Senate,
Washington, D. C.

DEAR SIR: I am instructed to wire you the following resolution enrolled by the Senate of the State of California on January 24, 1919: Whereas the Legislature of the State of California, by joint resolution at its last session, urged upon the Congress of the United States the passage of the amendment to the National Constitution known as the Federal suffrage amendment as a matter of justice to the women of our Nation who have labored and sacrificed side by side with the men in the world struggle for liberty and democracy; and Whereas said Federal suffrage amendment has been passed by the House of Representatives and now awaits the action of the Senate: Be it therefore

Resolved, That profoundly appreciative of the dignity and ability with which the women of this State have used their right to the ballot and so more than ever cognizant that sex discrimination in the granting of the franchise has no place in modern civilization, and realizing as never before how entirely the welfare of our Nation depends upon the material, moral, and spiritual activities of its men and women alike, the Legislature of the State of California urges upon the Senate of the United States at once to pass the Federal suffrage amendment that it may be submitted to the legislatures of the various States, to the end that before the next presidential election the Nation's women may enter upon the rights and duties of the franchise on the same basis as its men.

JOSEPH A. BECK,
Secretary of the Senate, State of California.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by J. C. South, its Chief Clerk, announced that the House had passed the following bills:

S. 3384. An act to amend the public-building act, approved March 4, 1913; and

S. 5318. An act granting a pension to Edith Carow Roosevelt.

The message also announced that the House disagrees to the amendments of the Senate to the bill (H. R. 13708) providing for the relief of such populations in Europe and countries contiguous thereto, outside of Germany, as may be determined upon by the President as necessary, agrees to the conference asked for by the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. SHERLEY, Mr. EAGAN, and Mr. CANNON managers at the conference on the part of the House.

The message further announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

H. R. 14746. An act making appropriations for the current and contingent expenses of the Bureau of Indian Affairs, for fulfilling treaty stipulations with various Indian tribes, and for other purposes, for the fiscal year ending June 30, 1920;

H. R. 14894. An act granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent children of soldiers and sailors of said war; and

H. R. 14945. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and certain soldiers and sailors of wars other than the Civil War, and to widows of such soldiers and sailors.

The message also communicated to the Senate the intelligence of the death of Hon. EDWARD EVERETT ROBBINS, late a Representative from the State of Pennsylvania, and transmitted resolutions of the House thereon.

The message further transmitted to the Senate resolutions on the life, character, and public services of Hon. JAMES H. BRADY, late a Senator from the State of Idaho.

The message also transmitted to the Senate resolutions on the life, character, and public services of Hon. ROBERT F. BROUSARD, late a Senator from the State of Louisiana.

ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House had signed the following enrolled bills, and they were thereupon signed by the Vice President:

S. 41. An act to authorize the sale of certain lands at or near Yellowstone, Mont., for hotel and other purposes;

S. 2552. An act to provide for a leave of absence for homestead entrymen in one or two periods, and for longer times; and

H. R. 12881. An act to increase the cost of the public building at Eldorado, Kans.

PETITIONS AND MEMORIALS.

The VICE PRESIDENT laid before the Senate a telegram embodying a resolution adopted by the Legislature of the State of Washington, which was referred to the Committee on Military Affairs and ordered to be printed in the RECORD, as follows:

OLYMPIA, WASH., January 23, 1919.

SECRETARY OF THE SENATE,
Washington, D. C.:

The following resolution was adopted by the Legislature of the State of Washington, Victor Zednick, secretary:

"Senate joint resolution No. 3, relating to compensation of discharged soldiers and sailors.

"Whereas the members of the Legislature of the State of Washington feel that this Nation owes to its soldiers and sailors of the late war an everlasting debt of gratitude which financial aid can never repay; but

"Whereas they believe that there is justly due to these men who have made such noble sacrifices a greater measure of financial aid than provided for by existing laws: Now, therefore, be it

"Resolved by the Senate and House of Representatives of the State of Washington in legislative session assembled, That we do earnestly request the Congress of the United States to enact appropriate legislation granting to each honorably discharged soldier and sailor all his uniform and clothing issued by the United States and expense of returning to his home and a bonus of \$300, and that your honorable body enact suitable legislation providing appropriate governmental agencies through which soldiers and sailors may secure employment; be it further

"Resolved, That a copy of this resolution be telegraphed to the Congress of the United States."

"Passed the senate January 20, 1919.

"LOUIS F. HART, President.

"Passed the house January 21, 1919.

"FRED A. ADAMS, Speaker."

The VICE PRESIDENT laid before the Senate resolutions adopted by the Legislature of the State of Oregon, which were referred to the Committee on Mines and Mining and ordered to be printed in the RECORD:

Senate joint memorial No. 3.

To the honorable the Senate and House of Representatives of the United States of America in Congress assembled:

Your memorialists, the Legislative Assembly of the State of Oregon, respectfully represent that:

Whereas the Government of the United States required war equipment and supplies which could not be produced without chromite; and

Whereas the urgent need for ships for military purposes cut off the supplies from abroad, upon which this country previously had depended; and

Whereas the Government, through its departments and war boards at Washington, advertised this great need for chromite by issuing circulars, bulletins, and letters urging the people to search for, to mine, and to deliver chromite ore; and

Whereas a large number of Oregon miners, most of whom are men of small means, responded freely to these Government advertisements by building roads and trails, making open cuts, and otherwise developing chrome mines and preparing to furnish this mineral to the Government, and who will be financially ruined unless relief comes immediately; and

Whereas there is now pending in the Congress of the United States a bill entitled "A bill to supplement an act of Congress approved October 5, 1918 (Public No. 220), and to authorize the Secretary of the Interior, from the funds appropriated by said act, to determine, to adjust, and pay losses sustained by investments preparatory to production of war minerals mentioned in said act": Now, therefore, be it

Resolved by the Senate of the State of Oregon (the House concurring), That the Legislative Assembly of the State of Oregon favor the enactment by Congress of Senate bill 5234, and to that end the Senators and Representatives in Congress of the United States from the State of Oregon are hereby urged to use their influence in behalf of the passage of said bill; and be it further

Resolved, That the chief clerk of the Senate of Oregon be directed to transmit by mail a copy of this memorial to the President of the United States Senate and the Speaker of the House of Representatives of the United States and to each of the Senators and Representatives from the State of Oregon in Congress.

Adopted by the house January 20, 1919.

SEYMOUR JONES,
Speaker of the House.

Adopted by the senate January 16, 1919.

W. J. VINTON,
President of the Senate.

The VICE PRESIDENT laid before the Senate a joint memorial of the Legislature of the State of Washington, which was referred to the Committee on Inter-oceanic Canals and ordered to be printed in the RECORD, as follows:

UNITED STATES OF AMERICA, STATE OF WASHINGTON,
DEPARTMENT OF STATE.

To all to whom these presents shall come:

I, I. M. Howell, secretary of state of the State of Washington and custodian of the seal of said State, do hereby certify that I have carefully compared the annexed copy of senate joint memorial No. 2 with the original copy of said senate joint memorial No. 2, now on file in this office, and find the same to be a full, true, and correct copy of said original, and of the whole thereof, together with all official indorsements thereon.

In testimony whereof I have hereunto set my hand and affixed hereto the seal of the State of Washington. Done at the capitol at Olympia this 15th day of January, A. D. 1919.

[SEAL.]

I. M. HOWELL,
Secretary of State.
By J. GRANT HINKLE,
Assistant Secretary of State.

Senate joint memorial 2.

To the PRESIDENT AND CONGRESS OF THE UNITED STATES:

Whereas the Nation has recently lost its foremost statesman and the world one of its greatest men.

Therefore for the purpose of perpetuating his name and memory we, the Senate and House of Representatives of the State of Washington, memorialize the Congress of the United States and request that the name of the "Panama Canal" be changed to "Roosevelt Canal."

Passed the senate January 13, 1919.

LOUIS F. HART, President.

Passed the house January 13, 1919.

FRED A. ADAMS, Speaker.

Mr. FLETCHER. I submit for printing in the RECORD a communication from the secretary of state of the State of Florida, transmitting resolutions adopted by the legislature of that State. The resolutions are as follows:

House concurrent resolution 9.

A concurrent resolution memorializing the Congress of the United States, inviting attention to the propriety of the improvement by the Federal Government of the St. Lucie Canal, Lake Okechobee, Caloosahatchee Canal and River, comprising a waterway across Florida from the Atlantic to the Gulf for navigation purposes.

Whereas the United States by act of Congress September 28, 1850, granted to the State of Florida certain swamp and overflowed lands for the purpose of their drainage and reclamation; and

Whereas among the lands so granted under the act aforesaid are the Everglades of Florida and certain contiguous territory which has by legislative enactment of the State of Florida been created and incorporated into the Everglades drainage district for the purpose of constructing canals, ditches, drains, controlling works, levees, and other works of drainage and reclamation within said Everglades drainage district; and

Whereas a part of such drainage works comprises the St. Lucie Canal, with its controlling works, and the Caloosahatchee Canal, with its controlling works, the first connecting Lake Okechobee and the Atlantic Ocean and the second connecting Lake Okechobee via Caloosahatchee River with the Gulf of Mexico, providing a continuous water route from the Atlantic Ocean to the Gulf of Mexico; and

Whereas by reason of the dimensions of the canal for drainage purposes there is incident a valuable navigation feature when properly harmonized, which said feature of navigation is being as far as practicable developed coincidentally with drainage; and

Whereas it is anticipated that the navigation feature through the channels above mentioned, to wit, the St. Lucie Canal, Lake Okechobee, Caloosahatchee Canal, together with the Caloosahatchee River, will provide a navigable route of increasing value, which will be well worth enlarging and improving for the purpose of developing a larger and broader navigation across said State and connecting the Atlantic Ocean with the Gulf of Mexico: Therefore be it

Resolved by the Legislature of the State of Florida in session assembled, this 3d day of December, 1918, That the advisability and practicability of enlarging and increasing the navigable depth of the channels being constructed by the State above mentioned be brought before the Federal Government, and that such waterways be, and the same are hereby, recommended proper as objects of improvement and development by the Federal Government of the navigable waters of the United States; and be it further

Resolved, That the Congress of the United States be urged to investigate the fitness of the waterways above mentioned for improvement and development, and the Congress be requested to make available such moneys as in its judgment may be required for the purpose aforesaid; and be it further

Resolved, That copies of this resolution be placed in the hands of all the members of the Florida delegation in the Congress of the United States, and that they be, and they are hereby, requested to use their best efforts to accomplish the objects above set forth.

STATE OF FLORIDA.

Office Secretary of State, ss:

I, H. Clay Crawford, secretary of state of the State of Florida, do hereby certify that the foregoing is a true and correct copy of house concurrent resolution No. 9, passed by the special session of the Legislature of Florida, 1918, and filed in this office.

Given under my hand and the great seal of the State of Florida, at Tallahassee, the capital, this the 22d day of January, A. D. 1919.

[SEAL.]

H. CLAY CRAWFORD,
Secretary of State.

Mr. FLETCHER presented a concurrent resolution of the Legislature of the State of Florida, which was referred to the Committee on Military Affairs and ordered to be printed in the RECORD, as follows:

House concurrent resolution 1.

A concurrent resolution, expressing the thanks of the people of the State of Florida to the President and Congress of the United States, all persons in authority, and to the soldiers and sailors who en-

listed in the service of the United States for their participation in the early and successful termination of the great war, and memorializing Congress to take such appropriate action as will result in the prompt return of all soldiers and sailors to civil life:

Whereas the wonderfully successful and early termination of the great war is viewed with great satisfaction by the people of this State; and

Whereas by reason of said successful and early termination of said war the material prosperity of this State and the happiness of her people has been and will be greatly enhanced; and

Whereas it will be to the best interest of this Government to have her soldiers and sailors now in service return to civil life at as early a date as possible; and

Whereas all classes of people of this Nation have greatly contributed to the success of the war: Now, therefore, be it

Resolved by the Legislature of the State of Florida, That the thanks of the people of this State are now tendered to the President of the United States, all Members of Congress, and all persons in authority for their patriotic and sincere endeavors in speeding the war and bringing it to an early and successful conclusion: Be it further

Resolved, That the thanks of the people of this State are also tendered to all Florida men in the military and naval service of the United States, who so bravely risked their lives in behalf of the freedom of the world and the peace of mankind. The traditions of this State have been upheld by them in an incomparable manner, and no words of praise can overestimate the feeling of appreciation entertained by our people: Be it further

Resolved, That the thanks of this legislature are hereby tendered to all our people who remained at home and yet who did such valiant work in behalf of the Government and the prosecution of the war, in connection with the organized movements of the Red Cross, Knights of Columbus, Young Men's Christian Association, Young Women's Christian Association, and all kindred organizations: Be it further

Resolved, That the Congress of the United States and all persons in authority be, and they are hereby, petitioned to take such appropriate action as will result in the return to civil life all of the soldiers and sailors now in service as promptly as the same may be done consistently with the public welfare: Be it further

Resolved, That a copy of these resolutions be sent to the President of the United States and to Florida Senators and Representatives in the United States Congress.

STATE OF FLORIDA,

Office of Secretary of State, ss:

I, H. Clay Crawford, secretary of state of the State of Florida, do hereby certify that the above and foregoing is a true and correct copy of house concurrent resolution No. 1, passed at the special session of the Legislature of Florida, 1918, and filed in this office.

Given under my hand and the great seal of the State of Florida, at Tallahassee, the capital, this the 17th day of January, A. D. 1919.

[SEAL.]

H. CLAY CRAWFORD,
Secretary of State.

Mr. FLETCHER presented a petition of sundry citizens of De Soto County, Fla., praying for the submission of a Federal suffrage amendment to the legislatures of the several States, which was ordered to lie on the table.

Mr. LODGE. I present resolutions of the Native Races Anti-Liquor Traffic Committee, commending the proposal of the President of China for the destruction of opium held in that country. The resolutions are very brief, and I ask that they be printed in the Record and referred to the Committee on Foreign Relations.

There being no objection, the resolutions were referred to the Committee on Foreign Relations and ordered to be printed in the Record, as follows:

NEW YORK CITY, January 6, 1919.

At a meeting of the Native Races Anti-Liquor Traffic Committee, held in New York City January 6, the following resolution was adopted:

Resolved, That this committee most heartily commends the proposal of the President of the Republic of China to destroy the opium now held in China, and that the Congress of the United States be asked to tender its congratulations and to offer financial assistance if desired; and that our secretary be, and is hereby, instructed to lay this matter before the proper parties in Congress."

MORNAY WILLIAMS, President.
HERVEY WOOD, Secretary.

Mr. LODGE presented a petition of the Salem Quarterly Meeting of the Society of Friends, in session at Boston, Mass., praying for the formation of a league of free nations, without the sanction of national armed force, as a part of the treaty of peace, which was referred to the Committee on Foreign Relations.

He also presented a petition of Ward Seven Good-Government Association, of Boston, Mass., praying for the establishment of a league of nations, which was referred to the Committee on Foreign Relations.

He also presented resolutions adopted by Valladolid Council, No. 70, Knights of Columbus, of Lynn, Mass., favoring freedom of Ireland, which were referred to the Committee on Foreign Relations.

He also presented a resolution adopted by the City Council of Malden, Mass., favoring the allowance of a month's pay to discharged soldiers and sailors, which was ordered to lie on the table.

He also presented a petition of the Central Labor Union of Chicopee, Mass., praying for the proposed extension of Federal control of railroads, which was referred to the Committee on Interstate Commerce.

Mr. KING presented a memorial adopted by the Legislature of the State of Utah, which was ordered to lie on the table and be printed in the Record, as follows:

STATE OF UTAH, EXECUTIVE DEPARTMENT,
SECRETARY OF STATE'S OFFICE.

I, Harden Bennion, secretary of state of the State of Utah, do hereby certify that the attached is a full, true, and correct copy of house joint resolution ratifying an amendment to the Constitution of the United States proposed by the joint resolution of the Senate and House of Representatives of the United States prohibiting the manufacture, sale, or transportation of intoxicating liquors within, the importation thereof into, and the exportation thereof from the United States and all territory subject to the jurisdiction thereof, for beverage purposes.

Adopted by the Legislature of the State of Utah, as appears on file in my office.

In witness whereof, I have hereunto set my hand and affixed the great seal of the State of Utah this 18th day of January, 1919.

[SEAL.]

HARDEN BENNION,
Secretary of State.

House joint resolution 1.

Ratifying an amendment to the Constitution of the United States proposed by the joint resolution of the Senate and House of Representatives of the United States prohibiting the manufacture, sale, or transportation of intoxicating liquors within, the importation thereof into, and the exportation thereof from the United States and all territory subject to the jurisdiction thereof, for beverage purposes.

Be it resolved by the Legislature of the State of Utah:

Whereas the Senate and the House of Representatives of the United States at the second session of the Sixty-fifth Congress of the United States of America by Senate joint resolution No. 17, proposed the following amendment to the Constitution of the United States, to become valid as part of the Constitution of the United States when ratified by the legislatures of the several States, as provided by said Constitution:

"ARTICLE —

"SECTION 1. After one year from the ratification of this article the manufacture, sale, or transportation of intoxicating liquors within, the importation thereof into, or the exportation thereof from the United States and all territory subject to the jurisdiction thereof for beverage purposes is hereby prohibited.

"SEC. 2. The Congress and the several States shall have concurrent power to enforce this article by appropriate legislation.

"SEC. 3. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of the several States, as provided in the Constitution, within seven years from the date of the submission hereof to the States by the Congress."

It is hereby resolved that said amendment to the Constitution of the United States be, and the same is hereby, ratified and adopted by the Legislature of the State of Utah.

It is further resolved that the secretary of state of the State of Utah be, and he is hereby instructed to transmit forthwith to the Secretary of State of the United States of America a certified copy of this resolution.

The foregoing house joint resolution was publicly read by title and immediately thereafter signed by the president of the senate, in the presence of the house over which he presides, and the fact of such signing duly entered upon the journal this 16th day of January, 1919.

J. W. FUNK, President of the Senate.

Attest:

ADAM L. PETERSON, Secretary of Senate.

The foregoing house joint resolution was publicly read by title and immediately thereafter signed by the speaker of the house in the presence of the house over which he presides, and the fact of such signing duly entered upon the journal this 16th day of January, 1919.

CHARLES C. RICHARDS,
Speaker of the House.

Attest:

HUGO B. ANDERSON,
Chief Clerk of House.

Received from the house of representatives this 17th day of January, 1919.

Approved January 18, 1919.

SIMON BAMBERGER, Governor.

Received from the governor and filed in the office of the secretary of state this 18th day of January, 1919.

HARDEN BENNION, Secretary of State.

Mr. KING presented a memorial adopted by the Legislature of the State of Utah, which was ordered to lie on the table and be printed in the Record, as follows:

STATE OF UTAH, EXECUTIVE DEPARTMENT,
SECRETARY OF STATE'S OFFICE.

I, Harden Bennion, secretary of state of the State of Utah, do hereby certify that the attached is a full, true, and correct copy of a memorial to the Congress of the United States, petitioning the Government to pass the Federal suffrage amendment, adopted by the Legislature of the State of Utah, as appears on file in my office.

In witness whereof I have hereunto set my hand and affixed the great seal of the State of Utah this 18th day of January, 1919.

[SEAL.]

HARDEN BENNION,
Secretary of State.

Senate memorial 1.

A memorial to the Congress of the United States, petitioning the Government to pass the Federal suffrage amendment.

To the Senate and House of Representatives of the United States in Congress assembled:

Your memorialists, the governor and Legislature of the State of Utah, respectfully represent that—

Whereas the Federal amendment to grant the right of suffrage to women equally with men has been before the Congress of the United States for more than 40 years; and

Whereas the women of the nonsuffrage States feel that the time has come when the Congress should give favorable consideration to this measure of justice to one-half the citizens of these United States.

Now, therefore, the governor and the Legislature of the State of Utah respectfully petition that the said suffrage amendment receive immediate and favorable consideration before the sixty-sixth session of Congress adjourns.

The foregoing senate memorial was publicly read by title and immediately thereafter signed by the president of the senate, in the presence

of the house over which he presides, and the fact of such signing duly entered upon the journal this 16th day of January, 1919.

J. W. FUNK,
President of the Senate.

Attest:

ADAM L. PETERSON,
Secretary of Senate.

The foregoing senate memorial was publicly read by title and immediately thereafter signed by the speaker of the house in the presence of the house over which he presides, and the fact of such signing duly entered upon the journal this 16th day of January, 1919.

CHARLES C. RICHARDS,
Speaker of the House.

Attest:

HUGO B. ANDERSON,
Chief Clerk of the House.

Received from the senate this 17th day of January, 1919.
Approved January 18, 1919.

SIMON BAMBERGER, Governor.

Received from the governor and filed in the office of the secretary of state this 18th day of January, 1919.

HARDEN BENNION,
Secretary of State.

Mr. SHERMAN. I present some resolutions adopted at Evanston, Ill., by parents and next friends of enlisted soldiers and sailors of that city on the question of the distinctive marks proposed. I ask that the resolutions be printed in the RECORD and referred to the Committee on Military Affairs.

There being no objection the resolutions were referred to the Committee on Military Affairs and ordered to be printed in the RECORD, as follows:

At a public meeting of the parents and next friends of the enlisted soldiers and sailors of the city of Evanston, Ill., on January 12, A. D. 1919, at 4 o'clock p. m., upon motion duly made and unanimously carried, it was declared to be the sense of such meeting that a protest should be entered against the use of any distinguishing insignia between the soldiers and sailors who have served overseas in the present war and those who have rendered service in their own country.

It was thereupon ordered that the undersigned be named as a committee on resolutions to express the sense of such meeting as disclosed by the discussion, and such committee hereby presents the following resolution as expressing the sentiments of such meeting:

"Resolved, That the parents and next friends of all soldiers and sailors from the city of Evanston, Ill., entirely disapprove of any action that may be taken by any officials which tends to draw a distinction between the service of soldiers and sailors who have been overseas and that of those who have served at home. We believe that such action will tend to create discontent and will be accepted by those who were unable to go across as a mark of inferior service. We know that many soldiers and sailors of our city have been anxious to serve at the front or upon the high seas and have been unable to do so through circumstances which they could not control. We know furthermore, that many have been retained in this country because they were efficient in instructing others or in performing more valuable services here than it was probable that they could render abroad, and because it was felt that they were needed here more than they were needed abroad. We firmly believe that an injustice will be done if any distinction is made in the kind of services rendered or where it was rendered by the use of distinguishing insignia or otherwise.

"Resolved, That a copy of these resolutions be presented to the commanding officials of the military and naval forces of the United States."

JOSEPH E. PADEN,
W. S. POWERS,
C. W. OLSON,
Committee on Resolutions.

Mr. WALSH presented a memorial adopted by the Legislature of the State of Montana, which was ordered to lie on the table and be printed in the RECORD, as follows:

House joint memorial 1.

A memorial to the Senate of the United States to pass an amendment to the Federal Constitution and submit the same to the several States for ratification extending the right of suffrage to the women citizens of the United States of America.

To the honorable Senate of the United States of America:

Your memorialists, the members of the Sixteenth Legislative Assembly of the State of Montana, the senate and house concurring, respectfully represent:

Whereas it appears that a majority of the people of the United States of America are in favor of extending the right of suffrage to the women citizens of the United States of America; and

Whereas there is now pending before the Senate of the United States a measure proposing an amendment to the Federal Constitution designed to effect such extension of suffrage: Now, therefore, be it

Resolved by the house (the senate concurring), That we, the members of the Sixteenth Legislative Assembly of the State of Montana, do hereby petition and earnestly pray the Senate of the United States that such measure proposing an amendment to the Federal Constitution so extending the right of suffrage be passed and submitted to the several States for ratification; and

Resolved further, That a copy of this memorial be forwarded by the secretary of state of Montana to the Senate of the United States, and that copies hereof be transmitted by the secretary of state of Montana to the Montana Senators in the Congress of the United States.

(Signed) O. W. BELDEN,
Speaker of the House.

(Signed) J. E. EDWARDS,
President of the Senate pro tempore.

Approved January 23, 1919.

(Signed) S. V. STEWART,
Governor.

UNITED STATES OF AMERICA,
State of Montana, ss:

I, C. T. Stewart, secretary of state of the State of Montana, do hereby certify that the foregoing is a true and correct copy of house joint memorial No. 1, a memorial to the Senate of the United States

to pass an amendment to the Federal Constitution and submit the same to the several States for ratification extending the right of suffrage to the women citizens of the United States of America, enacted by the Sixteenth Legislative Assembly of the State of Montana and approved by S. V. Stewart, governor of said State, this 23d day of January, 1919.

In testimony whereof I have hereunto set my hand and affixed the great seal of said State. Done at the city of Helena, the capital of said State, this 23d day of January, A. D. 1919.

[SEAL.] C. T. STEWART,
Secretary of State.

Mr. CHAMBERLAIN. I present a joint memorial adopted by the Legislature of the State of Oregon, which I ask to have printed in the RECORD and referred to the Committee on Irrigation and Reclamation of Arid Lands.

There being no objection, the memorial was referred to the Committee on Irrigation and Reclamation of Arid Lands and ordered to be printed in the RECORD, as follows:

Senate joint memorial 2.

Whereas only a small portion of the money contributed from the State of Oregon to the reclamation fund has been expended within the State of Oregon; and

Whereas the Owyhee project in Malheur County, Oreg., has been carefully examined and found from an engineering standpoint to be feasible and practicable and a desirable project, free from difficulties attendant upon many irrigation projects; and

Whereas the Owyhee irrigation district has already been formed and is now prepared to contract with the Reclamation Service for the construction of said project; and

Whereas the people under said project are unitedly in favor of Government aid in securing the reclamation of the lands under said project; and

Whereas the reclamation of the lands within this project will offer an opportunity for the building of homes by the returning soldiers and sailors of the United States: Now, therefore, be it

Resolved, That our Senators and Representatives in Congress be memorialized to use their influence to secure an appropriation for the construction of said project, and that a copy of this memorial be transmitted to the President of the United States of America, to each of our Senators and Representatives of the State of Oregon in Congress, and to the Secretary of the Interior, Franklin K. Lane.

Adopted by the house January 15, 1919.

SEYMOUR JONES,
Speaker of the House.

Adopted by the senate January 15, 1919.

W. I. VINTON,
President of the Senate.

Mr. CHAMBERLAIN. I present a joint memorial adopted by the Legislature of the State of Oregon, which I ask to have printed in the RECORD.

There being no objection, the memorial was ordered to lie on the table and be printed in the RECORD, as follows:

Senate joint memorial 1.

To the honorable Senate of the United States of America in Congress assembled:

Your memorialists, the Legislative Assembly of the State of Oregon, respectfully represent that—

Whereas a measure providing for the submission of a constitutional amendment granting equal suffrage is now pending before the Senate of the United States; and

Whereas equal suffrage was adopted in Oregon in November, 1912, and has during its six years of operation proved a complete success in every particular: Therefore be it

Resolved by the Senate of Oregon (the House of Representative concurring), That we do heartily indorse equal suffrage and pronounce it an unequal benefit and success, and we do respectfully request and petition the United States Senate to take favorable and immediate action on the measure now pending before it providing for the submission to the several States of a constitutional amendment granting equal suffrage throughout the United States; and we do urgently petition the members of the Oregon delegation to use their best efforts toward securing the adoption thereof; be it further

Resolved, That a copy of this resolution be transmitted by the chief clerk of the Oregon Senate to the President and Vice President of the United States, and to each Senator and Representative from Oregon in the United States Congress.

Adopted by the house January 14, 1919.

SEYMOUR JONES,
Speaker of the House.

Adopted by the senate January 14, 1919.

W. I. VINTON,
President of the Senate.

Mr. MOSES. I present a communication from the secretary of the Rotary Club, of Manchester, N. H., embodying resolutions adopted at a meeting of that club relative to the value of improved national highways in the general transportation system of the Nation. I ask that the communication be printed in the RECORD and referred to the Committee on Agriculture and Forestry.

There being no objection, the communication was referred to the Committee on Agriculture and Forestry and ordered to be printed in the RECORD, as follows:

ROTARY CLUB,
Manchester, N. H., January 23, 1919.

HON. GEORGE H. MOSES,
Washington, D. C.

DEAR MR. MOSES: At a meeting held January 21, 1919, the following resolutions were adopted and are forwarded for your information as an expression of our opinion:

"Whereas the President of the United States in his recent message to Congress recognized the value of improved highways in the general

transportation system of the Nation and definitely recommended and urged their rapid development; and

"Whereas this work is necessary to give employment to our returning soldiers and also to furnish worthy projects on which unemployed labor can be engaged during the period of readjustment; and

"Whereas we recognize the necessity for a well-defined and connected system of improved highways in order to expedite the distribution of large volumes of foodstuffs now wasted on account of the lack of prompt and adequate highway transportation, and to better serve the economic and military needs of the Nation: Therefore be it

Resolved, That a Federal highway commission be created to promote and guide this powerful economic development of both highways and highway traffic and establish a national highway system; Be it further

Resolved, That the present appropriations for Federal aid to the States be continued and increased and the States urged to undertake extensive highway construction so as to keep pace with the development of this country and its transportation needs, and in carrying out the provisions of the present Federal-aid act, or any amendment thereto, that the State highway departments shall cooperate with the Federal highway commission; Be it further

Resolved, That all governmental activities with respect to highways be administered by the Federal highway commission."

Very truly, yours,

R. C. MARDEN, *Secretary*.

Mr. COLT presented a resolution adopted by the Rotary Club, of Providence, R. I., favoring the changing of the name of the Panama Canal to Roosevelt Canal, which was referred to the Committee on Inter-oceanic Canals.

Mr. JOHNSON of California. I present a telegram embodying a resolution adopted by the Legislature of the State of California, which I ask to have printed in the Record.

There being no objection, the telegram was ordered to be printed in the Record, as follows:

SACRAMENTO, CAL., January 26, 1919.

Senator HIRAM W. JOHNSON,
United States Senate, Washington, D. C.

DEAR SIR: I am instructed to wire you the following resolution, endorsed by the Senate of the State of California on January 24, 1919:

"Whereas the Legislature of the State of California, by joint resolution at its last session, urged upon the Congress of the United States the passage of the amendment to the national Constitution known as the Federal suffrage amendment as a matter of justice to the women of our Nation who have labored and sacrificed side by side with the men in the world struggle for liberty and democracy; and

"Whereas said Federal suffrage amendment has been passed by the House of Representatives and now awaits the action of the Senate: Be it therefore

Resolved, That, profoundly appreciative of the dignity and ability with which the women of this State have used their right to the ballot, and so more than ever cognizant that sex discrimination in the granting of the franchise has no place in modern civilization, and realizing as never before how entirely the welfare of our Nation depends upon the material, moral, and spiritual activities of its men and women alike, the Legislature of the State of California urges upon the Senate of the United States at once to pass the Federal suffrage amendment, that it may be submitted to the legislatures of the various States, to the end that before the next presidential election the Nation's women may enter upon the rights and duties of the franchise on the same basis as its men."

JOSEPH A. BECK,
Secretary of the Senate.

CALLING OF THE ROLL.

Mr. KING. Mr. President, I suggest the absence of a quorum. The VICE PRESIDENT. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Hollis	Nelson	Spencer
Bankhead	Johnson, Cal.	New	Sterling
Calder	Johnson, S. Dak.	Nugent	Swanson
Chamberlain	Jones, N. Mex.	Overman	Thomas
Colt	Jones, Wash.	Page	Thompson
Culberson	Keillogg	Penrose	Townsend
Cummins	Kenyon	Pittman	Trammell
Curtis	King	Polindexter	Underwood
Fernald	Kirby	Pollock	Vardaman
Fletcher	Knox	Pomerene	Walsh
France	La Follette	Ransdell	Warren
Frelinghuysen	Lenroot	Reed	Watson
Gay	Lodge	Shafroth	Weeks
Hale	McKellar	Sheppard	Williams
Harding	McNary	Sherman	
Henderson	Martin, Va.	Smith, Ga.	
Hitchcock	Moses	Smoot	

Mr. KIRBY. I announce the unavoidable absence of the senior Senator from Arkansas [Mr. ROBINSON], who is still detained by illness. I ask that this announcement may stand for the day.

Mr. McKELLAR. I desire to announce that the senior Senator from Tennessee [Mr. SHIELDS] is absent on account of illness.

Mr. KENYON. The Senator from Nebraska [Mr. NORRIS] is absent on official business. This announcement will stand for to-day.

Mr. FRELINGHUYSEN. I wish to announce the unavoidable absence of my colleague [Mr. BAIRD] on account of illness. I will allow this announcement to stand for the week.

Mr. CURTIS. I was requested to announce the necessary absence of the Senator from West Virginia [Mr. SUTHERLAND]

on account of illness in his family. I ask that this announcement may stand for the day.

Mr. SHEPPARD. I wish to announce that the senior Senator from Delaware [Mr. SAULSBURY] and the junior Senator from Delaware [Mr. WOLCOTT] are detained on important public business.

Mr. MARTIN of Virginia. I desire to announce that the senior Senator from Maryland [Mr. SMITH] is detained by illness.

Mr. PITTMAN. I wish to announce that the Senator from North Carolina [Mr. SIMMONS] and the Senator from Illinois [Mr. LEWIS] are detained on official business.

The VICE PRESIDENT. Sixty-five Senators have answered the roll call. There is a quorum present.

REPORTS OF COMMITTEES.

Mr. FLETCHER, from the Committee on Commerce, to which was referred the bill (H. R. 13462) making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, reported it with amendments and submitted a report (No. 665) thereon.

Mr. HENDERSON, from the Committee on Post Offices and Post Roads, to which was referred the bill (S. 29) to reimburse W. B. Graham, late postmaster at Ely, Nev., for money expended for clerical assistance, reported it without amendment and submitted a report (No. 668) thereon.

He also, from the same committee to which was referred the bill (H. R. 1607) for the relief of David E. Gray, reported it without amendment and submitted a report (No. 669) thereon.

POST OFFICE APPROPRIATIONS.

Mr. BANKHEAD. From the Committee on Post Offices and Post Roads I report back favorably with amendments the bill (H. R. 13308) making appropriations for the service of the Post Office Department for the fiscal year ending June 30, 1920, and I shall submit a report (No. 666) thereon. I will state that the report will be filed this evening, so that it may be printed in the morning.

I give notice that as soon as the special order which is now being considered is disposed of I shall ask the Senate to consider the bill.

The VICE PRESIDENT. The bill will be placed on the calendar.

CARSON INDIAN SCHOOL, STEWART, NEV.

Mr. PITTMAN. From the Committee on Indian Affairs I report back favorably without amendment the bill (S. 4887) making an appropriation for a sewer system at the Carson Indian School at Stewart, Nev., and I submit a report (No. 663) thereon. I ask unanimous consent for the present consideration of the bill. It is a bill to correct an inadvertence. An item in the Indian appropriation act of 1918 was left out of print by the inadvertence of the clerk. It is a matter that must be attended to immediately. I therefore ask unanimous consent for the present consideration of the bill.

There being no objection, the bill was considered as in Committee of the Whole, and it was read, as follows:

Be it enacted, etc., That the sum of \$8,000 is appropriated, out of any money in the Treasury not otherwise appropriated, to be expended under the direction of the Commissioner of Indian Affairs of the United States in the construction and installation of a sewer system at the Carson Indian School at Stewart, in the State of Nevada.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

DENIAL OF PATENT TO S. M. HERBER.

Mr. KENYON. I present from the Committee on Standards, Weights, and Measures a report signed by the chairman. It has been utterly impossible to secure a quorum of the committee. I ask that the report of the chairman, which is short, may be printed in the Record.

There being no objection, the report (No. 667) was ordered to be printed in the Record, as follows:

Mr. KENYON, from the Committee on Standards, Weights, and Measures submitted the following report, pursuant to S. Res. 259:

On the 7th day of June, 1918, the Senate passed the following resolution:

"Whereas it is asserted by reliable persons that Mr. S. M. Herber, of St. Joseph, Mo., has discovered a process of extracting from petroleum or fuel oil gasoline and other motor fuel in greatly increased quantities and at much less cost than the process now in use; and

"Whereas the discoverer of the said process has submitted to certain officers of the Government an offer to demonstrate the value of the process to the Government and to the people without expense, other than the presence of such experts as might be selected by the Government; and

"Whereas this offer has not yet been accepted, and there is immediate necessity of increasing the output of motor fuel, and decreasing, if possible, the cost to the users: Therefore be it

"Resolved, That the Committee on Standards, Weights, and Measures of the Senate be directed to make an investigation of the subject, including the denial of a patent to the said Herber for a process of extracting gasoline from petroleum, and to report to the Senate thereon as soon as practicable the information acquired, and its recommendations with respect to the matter."

It has been impossible to secure the attendance of a quorum of said committee. The chairman has therefore proceeded to hear evidence and presents now a report signed by himself, in no way binding upon the balance of the committee, and asks that the committee be discharged from further consideration of the matter.

The investigation has been limited to the question of the denial of a patent to Mr. Herber for a process for extracting gasoline from petroleum. While the resolution covered the general subject as to the value of said process, no evidence with relation thereto has been furnished.

The work of the committee has been especially difficult, as the questions involved are intricate and relate to the administration of the patent laws and the rules of the Patent Office. The question is difficult to be understood by those who are not experienced on the subject, and the committee has not had the benefit of an expert patent attorney to present the matter.

Further, some of the parties who should know the facts are dead or beyond the reach of the committee.

Mr. Herber claims that a patent was unlawfully denied to him on his application, No. 91447, filed April 15, 1916, and that a patent was illegally issued to John Coast, Jr., on Coast's application, No. 127128, filed the 23d day of October, 1916, Herber claiming that the Coast application covered identically the same process. Herber also claims that certain rules of the Patent Office were not carried out, reference to which will be made later on. Also that certain patents known as the Forward, Daul, and Strain patents were illegally and improperly brought forward in order to prevent his securing his patent. In other words, Herber's claims are an indictment of the Patent Office for illegal action depriving him of an invention of great value and bestowing the same upon Coast.

II.

Herber's claims were rejected by Examiner Ely, now dead, November 10, 1916. Said examiner therein made reference to the Daul and Strain patents. This letter of Examiner Ely was as follows:

[W. T. Fitz Gerald & Co., Washington, D. C. Samuel M. Herber. No. 91447. Filed April 15, 1916.]

METHOD OF SEPARATING OIL.

This case as amended November 3 has been considered. The following additional patents are made of record: Daul, 258284, May 23, 1882, 196-5; Strain, 298712, May 13, 1884, 196-2; Strain, 311543, February 3, 1885, 196-27.

In view of the additional references the previously allowed claims are rejected, being fully met by any of these patents in view of the previous references in the case, the patent to Forward disclosing cracking and distillation by steam. It appears also that cracking would be produced in either Strain, which is necessarily under same pressure; and further, that the pressure in the system could be regulated by the various cocks.

The claims in the case are rejected.

ELY, Examiner.

A.M.P.

Subsequently thereto, namely, November 13, 1916, Herber's attorneys asked for a reconsideration calling attention of the examiner to the fact that Forward's application was copending with the Herber application, having been filed on May 15, 1915, and patented June 27, 1916.

Mr. Herber's application was filed on April 15, 1916, and if there was anything in conflict between these applications an interference should have been declared.

On November 17 Examiner Ely filed an additional opinion in which nothing, however, was said, about an interference, and the claims were finally rejected. Herber then appealed from this finding to the examiners in chief, they holding (p. 30, transcript of the record, Exhibit A) that the claims of Herber were anticipated by the Forward patent and accordingly affirmed the examiner's decision.

Herber then appealed from this to the Commissioner of Patents, and on March 12, 1917, the Commissioner of Patents, Mr. Thomas Ewing, filed his opinion sustaining the examiners in chief. Referring to the Herber process (p. 37, transcript of the record), he said:

"The most that can be said is that they differ from the Forward process in the substitution of one well-known way of heating the oil for another."

Herber then appealed to the Court of Appeals for the District of Columbia. The matter was there heard, and the court filed its opinion June 2, 1917, sustaining the Commissioner of Patents. Among others this language is used:

"After careful consideration of appellant's brief in connection with the record, we have reached the conclusion that the decision of the commissioner should be affirmed, and upon the ground stated by him. In other words, we are fully satisfied that the Forward patent, No. 1,189,082, of June 27, 1916, is a complete anticipation of appellant's claims."

"The decision is affirmed."

"CHAS. H. ROBB, Associate Justice."

I have sketched briefly the progress of this matter through the courts, and it seems to me that the last decision determined adversely Herber's claim to a patent on his process, unless said decision is in some way set aside. Under rule 94 or 96 of the Patent Office, it seems to me an interference should have been declared between Herber's application and the Forward application or the Forward patent. It should be stated as an interesting matter of fact that in a letter of November 10 from the Patent Office to Herber appear these words:

"In view of the additional reference the previously allowed claims are rejected."

Herber felt that this letter was an indication that his claims had been previously allowed. There is no record to show this, but the wording of the letter naturally aroused his suspicion.

However, under the decision of the court, as before referred to, it must stand as an adjudicated fact that Herber had no right to a patent upon his processes as presented in his application.

III.

THE COAST PATENT.

Coast filed his claim on the 23d day of October, 1916. Herber claims in his testimony that this process and his process are identical. Mr. Newton, present commissioner (pp. 151-152 of the record) states that

Coast claimed a different invention from what Herber did. Therefore he says they allowed Coast's claims and refused Herber's claims.

Further, it is stated by the commissioner that they tried to have Herber declare an interference with Coast.

It had been before decided, as set forth in division 2 hereof, that Herber's claims had been held to be nonpatentable. That being true, I fail to understand how there could be any right to an interference between the Coast claims and the Herber claims. It is the theory of the Patent Office that Herber could have made the same claims as Coast and in that way thrown them into interference, and it could have been determined who was the first inventor. Herber claims such interference should have been under rule 94, the Patent Office claiming it should have been under rule 96.

I am unable to state from my examination and from listening to the evidence whether or not the Coast claims are exactly identical with the Herber claims. Certainly they are very much alike.

Further, Herber filed an affidavit under the rules of the Patent Office after the time of Coast's filing and before the Coast patent was issued. He claims that this would, under the rule, prevent the issuance of the Coast patent until the matter was tried out.

While technically there could be no interference between the Coast patent and the Herber claims, as the last had been held to be nonpatentable, yet in making a new claim slightly different, I assume the two could have been thrown into interference. And it would seem as if this should have been done without heckling over the technical method of bringing it about. This is a perplexity, however, that the committee is unable to solve.

That there was fraud practiced by the Patent Office can not be assumed. Fraud must be clearly shown and not derived from inferences, unless the inferences are incompatible with the theory of good faith.

These things seem to be true: Herber filed an application for process that he felt would be of great value. The Forward patent was issued after Herber filed his application. The Coast patent was issued on substantially the same matter as the Herber patent months after Herber filed his application. The Coast patent was issued after Herber had filed an affidavit, as provided by the rules of the Patent Office, setting forth that his process had been in existence before the time of the Coast application.

It seems to me there should have been an interference between the Herber patent and the Forward patent, so the question of priority of invention could have been determined.

It further seems that the patent should not have been issued to Coast until there had been some determination of the priority of invention in the claims then being made by Herber and set forth in his affidavit.

The matter is so intricate and the hearings have been so unsatisfactory it would seem to the chairman it would be wise if the whole matter could be opened up by the Patent Office and a new hearing granted. I addressed a letter to the Commissioner of Patents along that line, but he seems to think it is impossible after the lapse of time to grant a rehearing. I make no recommendation as to the action that Congress should take in this matter and I do not discuss remedies for this unfortunate situation. I think the evidence presented, however, is sufficient to warrant some action on the part of Congress. Whether Congress could set aside the Forward patent or the Coast patent, I am not prepared to say. I do feel very strongly that if there is any legal way that Congress may again open the door for Mr. Herber to present his claims, he should have the opportunity of doing so.

The records and papers are returned to this body with the request that the Committee on Standards, Weights, and Measures be discharged from further consideration of the subject.

WM. S. KENYON, Chairman.

BILLS INTRODUCED.

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. CUMMINS:

A bill (S. 5433) to provide for certain commissions and promotions in the military service; to the Committee on Military Affairs.

By Mr. SHAFROTH:

A bill (S. 5434) granting an increase of pension to Luke Cahill;

A bill (S. 5435) granting an increase of pension to Bettie Dodge; and

A bill (S. 5436) granting a pension to Inezella C. Foy; to the Committee on Pensions.

By Mr. WALSH:

A bill (S. 5437) for the relief of Harry Scott (with accompanying papers); to the Committee on Claims.

By Mr. KNOX:

A bill (S. 5438) granting a pension to William V. Feltwell (with accompanying papers); to the Committee on Pensions.

By Mr. TRAMMELL:

A bill (S. 5439) to authorize the Secretary of War to deliver to each of the several county seats in the State of Florida captured German cannon and cannon balls or shells; to the Committee on Military Affairs.

By Mr. JONES of Washington:

A bill (S. 5440) authorizing the Secretary of War, in his discretion, to deliver to each of the several county seats in the State of Washington captured German cannon, cannon balls or shells, and gun carriages, condemned United States cannon, cannon balls or shells, or gun carriages; to the Committee on Military Affairs.

By Mr. CURTIS:

A bill (S. 5441) donating captured cannon and cannon balls to the city of Bluff City, Kans.; to the Committee on Military Affairs.

By Mr. WEEKS:

A bill (S. 5442) for the relief of the owner of the steam lighter *Cornelia* (with accompanying papers); and

A bill (S. 5443) for the relief of the owners of the schooner *Horatio G. Foss*; to the Committee on Claims.

By Mr. POINDEXTER:

A bill (S. 5444) granting an increase of pension to William H. H. Watkins; to the Committee on Pensions.

By Mr. SPENCER:

A bill (S. 5445) granting a pension to John H. Helser; and
A bill (S. 5446) granting a pension to Julius Cohn; to the Committee on Pensions.

AMENDMENTS TO APPROPRIATION BILLS.

Mr. LODGE submitted an amendment authorizing certain persons formerly connected with the American Embassy at Berlin to accept pieces of plate presented to them by the British Government, etc., intended to be proposed by him to the Diplomatic and Consular appropriation bill, which was referred to the Committee on Foreign Relations and ordered to be printed.

Mr. JONES of Washington submitted an amendment proposing to appropriate \$50,000,000 to resume and prosecute work on projects and units thereof under the reclamation act stopped during the war, etc., intended to be proposed by him to the sundry civil appropriation bill, which was referred to the Committee on Irrigation and Reclamation of Arid Lands and ordered to be printed.

Mr. MOSES submitted an amendment relative to clerks and messengers to Senate committees, intended to be proposed by him to the legislative, executive, and judicial appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed.

Mr. McNARY submitted an amendment relative to the establishment of a home or homes for aged and infirm colored people and working girls in the District of Columbia, intended to be proposed by him to the District of Columbia appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed.

RIVER AND HARBOR APPROPRIATIONS.

Mr. CALDER submitted an amendment intended to be proposed by him to the river and harbor appropriation bill, which was ordered to lie on the table and be printed.

Mr. FRELINGHUYSEN submitted an amendment intended to be proposed by him to the river and harbor appropriation bill, which was ordered to lie on the table and be printed.

VALIDATION OF WAR CONTRACTS.

Mr. POMERENE. Mr. President, the bill (H. R. 13274) to provide relief where formal contracts have not been made in the manner required by law, was on Friday last made the unfinished business and is to be considered. The purpose of that bill is to validate certain informal contracts, and I have an amendment which I intend to propose to it which looks more particularly to the protection of subcontractors. I ask that the amendment may be printed in the RECORD and lie on the table.

There being no objection, the amendment was ordered to lie on the table and be printed in the RECORD, as follows:

Insert the following:

Whenever, under the provisions of this act, the Secretary of War shall make an award to any prime contractor who shall have sublet any part of said contract for material, equipment, or supplies to any other person, firm, or corporation who has in good faith made expenditures, incurred obligations, rendered service, or furnished material, equipment, or supplies to any prime contractor, with the knowledge and approval of any agent of the Secretary of War duly authorized thereunto, the Secretary of War shall apportion the amount of said award justly due to each of the subcontractors of said prime contractors. Before payment of said award the Secretary of War shall require any prime contractor to present satisfactory evidence of having paid said subcontractors or of the consent of said subcontractors to look for their compensation to said prime contractor only; and in the case of the failure of said prime contractor to present such evidence or such consent, the Secretary of War shall pay directly to said subcontractors the amount found to be due under said award; and in case of the insolvency of any prime contractor the subcontractor of said prime contractor shall have a lien upon the funds arising from said award prior and superior to the lien of any general creditors of said prime contractor.

GOVERNMENT CONTROL OF CABLES.

Mr. WATSON submitted the following resolution (S. Res. 429), which was read and referred to the Committee on Post Offices and Post Roads:

Resolved, That the Committee on Post Offices and Post Roads be, and it is hereby, authorized and directed to investigate the assumption by the Government of the supervision, possession, control, or operation of any or all of the telegraph, telephone, and marine cable systems; the reasons for such assumption; the financial results of governmental operation, and the effects of Government control on the efficiency of such systems, and report to the Senate of the United States its findings and conclusions thereon.

Such committee is authorized to subpoena witnesses and documents, administer oaths, and to do all acts and things necessary to the carrying out of the purposes of this resolution.

Mr. KELLOGG. Mr. President, on January 2 I submitted a resolution for the investigation of telegraphs, telephones, and cables, but it embodies a great deal more than the resolution which has just been submitted by the Senator from Indiana [Mr. WATSON]. The resolution introduced by me has been lying on the table, and I ask that it be referred to the Committee on Interstate Commerce.

The VICE PRESIDENT. Without objection, it will be so ordered.

AGNES KELLEY.

Mr. THOMPSON. On behalf of the senior Senator from Maryland [Mr. SMITH], who is necessarily absent from the Senate because of an injury as the result of an accident, I submit the resolution which I send to the desk, and ask that it be read and referred to the Committee to Audit and Control the Contingent Expenses of the Senate.

The resolution (S. Res. 427) was read and referred to the Committee to Audit and Control the Contingent Expenses of the Senate, as follows:

Resolved, That the Secretary of the Senate be, and he hereby is, authorized and directed to pay from the miscellaneous items of the contingent fund of the Senate to Agnes Kelley, widow of John N. Kelley, late a laborer in the employ of the Senate under supervision of the Sergeant at Arms, a sum equal to six months' compensation at the rate he was receiving by law at the time of his death, said sum to be considered as including funeral expenses and all other allowances.

COMPLAINT OF E. L. RICE.

Mr. KING submitted the following resolution (S. Res. 428), which was read and referred to the Committee on Military Affairs:

Resolved, That the Secretary of War be, and he is hereby, directed to transmit to the Senate the report of the Inspector General made to the Secretary of War, on or about October 1, 1918, in the matter of the complaint of E. L. Rice with respect to Lieut. Col. Robert A. Milliken, Col. C. H. Hilton, and Lieut. D. L. Webster, and others.

TRIALS BY COURTS-MARTIAL.

Mr. BORAH. I offer a Senate resolution, and I ask unanimous consent that it be immediately considered.

Mr. PENROSE. Let the resolution be read for information. The VICE PRESIDENT. The Secretary will read the resolution.

The Secretary read the resolution (S. Res. 426), as follows:

Resolved, That the Secretary of War be, and he is hereby, directed to send to the Senate the number of individuals who have been tried and convicted by court-martial proceedings since our entrance into the war, April 6, 1917, together with a brief statement of the offense charged and the nature and extent of the punishment inflicted upon or assessed against each.

The VICE PRESIDENT. Is there objection to the immediate consideration of the resolution?

The resolution was considered by unanimous consent and agreed to.

LIFE-SAVING DEVICES.

Mr. JONES of Washington. I submit a Senate resolution, and I ask for its immediate consideration.

The VICE PRESIDENT. The Secretary will read the resolution.

The resolution (S. Res. 425) was read, considered by unanimous consent, and agreed to, as follows:

Resolved, That the Secretary of Commerce be, and he is hereby, directed to report to the Senate whether or not Title LII, Revised Statutes, for the regulation of steam vessels, as amended and supplemented, is being enforced as respects life-saving devices, designating the character of such devices, if any, as are not being required for such vessels, and why not so required; and whether or not the steam cargo and passenger vessels owned, operated, or controlled by the United States Shipping Board and by the Emergency Fleet Corporation are equipped with the life-saving devices described in that title, as amended and supplemented, and why they are not so equipped, if that be the case.

PROMOTIONS IN THE ARMY.

Mr. KING. Mr. President, on the 30th of December last I submitted a resolution seeking certain information relative to the granting of commissions after the signing of the armistice to enlisted men who had been recommended for commissions prior to the signing of the armistice. Subsequently this resolution was adopted. The Secretary of War, responding to the resolution, has transmitted a report to the President of the Senate. I ask that it may be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KING. Mr. President, one of my colleagues suggests that it be read. I have no objection.

The PRESIDING OFFICER. The Secretary will read the report.

The Secretary read as follows:

WAR DEPARTMENT,
Washington, January 18, 1919.

To the PRESIDENT OF THE SENATE:

SIR: In accordance with the provisions of a resolution of the Senate dated January 3, 1919, which reads as follows:

"Whereas prior to the signing of the armistice a large number of enlisted men in the Army had been recommended for commissions and many officers had been recommended for promotion, and such recommendations were pending in the War Department when said armistice was signed; and
"Whereas an order was issued by the Secretary of War which resulted in no action being taken upon said recommendations or either of them; and
"Whereas officers and enlisted men who were so recommended are being discharged from the service without said recommendations being acted upon; and
"Whereas no good and sufficient reason appears for failure to act upon said recommendations, and justice and good faith would seem to require affirmative action thereon: Therefore, be it

"Resolved, That the Secretary of War be directed to report to the Senate whether a modification or revocation of said order is contemplated; and if not, what reasons exist for failing to act upon said recommendations."

I have the honor to report as follows:

Appointments to any commissioned grade in the United States Army have been made, and can properly be made, only when vacancies exist. Immediately upon the conclusion of the armistice, November 11, 1918, the demobilization of the temporary army was begun and has been proceeding with great rapidity. From and after that date, therefore, instead of there being any vacancies in any grade there has been a surplus of officers in every grade, which it has been necessary to reduce by discharge. To increase the surplus by further appointments would have been unjustifiable, and such appointments were therefore discontinued. As it is necessary to continue the discharge of officers at the rate of more than 1,000 a day, it is not contemplated to resume appointments.

In connection with the suggestion which is frequently made that commissions be conferred upon those persons who had been recommended for them prior to the signing of the armistice, in order that on their discharge they may carry with them into civil life the title of a higher rank, the department has consistently adhered to the views that a military office, like any other, should be conferred only with a view to the performance of the duties pertaining to it, and that when there is no expectation that a person will perform the duties of an office, civil or military, appointment to such office can with difficulty be justified. No change in this policy is contemplated.

There is a certain class of military office, however, to which no present duties are attached, but whose purpose is to place the holder in such a position that under certain circumstances the Government may require his services. I refer to the Officers' Reserve Corps. Appointment in this corps is properly conferred upon those from whom no immediate services are required, and such appointment carries with it office, rank, and title in the United States Army. Immediately after the conclusion of the armistice, I directed that a commission in the Officers' Reserve Corps be offered to every enlisted man who had been properly recommended during the war as qualified for such commission. I further directed that in every case where an officer had been duly recommended for promotion he be offered a reserve commission with the rank for which recommended. Under the present law appointments in the Officers' Reserve Corps are restricted to certain grades and certain limitations are imposed as to the age of appointees. I expect to transmit to Congress in the near future my recommendations for amendment of this law, which will make it possible to offer to every officer who has served in the war a reserve commission in the grade for which he has been found qualified.

The matter may briefly be summed up as follows: The demobilization of the Army makes it impossible to employ any additional officers on active duty, but, on the contrary, necessitates the discharge of many already in the service. For officers not on active duty, but held in reserve, the need will always exist in time of peace. The War Department, therefore, has discontinued the appointment of officers for active duty, but offers to every man who has been found qualified for it a commission in the United States Army with inactive status.

Respectfully,

NEWTON D. BAKER,
Secretary of War.

CLAIMS AGAINST MEXICO.

Mr. KING. Mr. President, several days ago I submitted a resolution, which was referred to the Committee on Foreign Relations, calling for certain information from the State Department as to what policy it would pursue in regard to the claims presented by American citizens against the Republic of Mexico for damages sustained to their property, as well as for damages claimed because of injuries to persons and because of the death of certain American citizens. The committee, through the chairman, promised to report that resolution at an early date. I understand that some consideration has been given to it, and I hope it will be reported at the next meeting of the committee.

Since then I have received a letter from Mr. Malcolm S. Little, a gentleman whom I know, a reputable lawyer of Los Angeles, in which he calls attention to a bill now pending in the legislative body of the State of Sonora, which has for its object the confiscation of more than 10,000,000 acres of land belonging to American citizens in that State. The letter is a very instructive one upon the situation. He invites attention to the wrongs and injuries to which American citizens have been subjected. He transmits with his letter a copy of the pending bill, translated into the English language. I shall not ask that the translation of the bill be printed in the Record; but I request that the letter which I have received from Mr. Little be printed in the Record, and that the letter and the translation of the proposed measure be referred to the Committee on Foreign Relations.

The PRESIDING OFFICER. Without objection, it is so ordered.

The letter is as follows:

LOS ANGELES, CAL., January 4, 1919.

Hon. W. H. KING,

United States Senate, Washington, D. C.

MY DEAR SENATOR: I notice from a Washington dispatch a purported interview with you concerning the Mexican situation, and am therefore taking the liberty of handing you herewith a translation of a bill now pending in the Legislature of the State of Sonora, Mexico, providing for the enforced subdivision and sale of all lands in said State in excess of the maximum areas which owners will be permitted to retain, as established in article 15 of the proposed law. A hectare is equivalent to 2.47 acres.

American citizens and American-owned corporations hold in fee in the State of Sonora approximately 10,000,000 acres of land, most of which has been held 20 years or more, and were acquired in every case, so far as my information goes—and I am familiar with the titles to all the larger tracts—by purchase from citizens of Mexico for cash consideration, in compliance with all legal requirements in force at the time and under the guaranties furnished by the constitution of the State and Federal Governments.

Under this bill, if enacted into law, owners of land must at their own expense subdivide them in the manner directed by the State, subject to their expropriation, subdivision, and sale by the State if they refuse so to do. The price at which the owners shall be paid is the declared value of the land for purpose of taxation, plus 30 per cent thereof, and the cost of subdivision, if the subdivision is made by the owners, or plus only 10 per cent of such value if the lands are taken by expropriation proceedings. The price thus determined shall be paid by the Mexicans to whom the lands are distributed in 20 annual installments, beginning two years from the date on which they are subjected to use, with interest at 5 per cent per annum. The law does not provide for a vendor's lien on the lands, the State in no way secures payment of the purchase price, and the only remedy of the present owners would be against the individual distributees, mostly poor peons, of whom there would be thousands in some cases, and who would be protected by the homestead act.

This is merely a bald attempt to disguise confiscation.

During the last five years American property owners have been constantly harassed by the military government, their goods and crops have been destroyed or appropriated without compensation, and some of their property has been sold under tax decrees issued by the military by an assumption of legislative powers.

The larger American companies that were thus unjustly treated first protested to the Sonora State Government, without effect, then to the Federal Government under Mr. Carranza, with like results, and next to the American Government. I understand our State Department has made representations to Carranza against such unwarranted treatment, but with no apparent effect on the Sonora government, which long ago became obdurate in the pursuit of its own policy to appropriate foreign-owned lands, regardless of protests and diplomatic representations. This proposed law is the culmination of this policy and likewise the fruit of the forbearance of the American Government in the face of the exploitation of the properties of its citizens, a course, no doubt, heretofore justified by other considerations, but which, however, has been interpreted by the Mexicans as weakness.

This law, if enacted, will affect foreigners, principally Americans, almost exclusively, since most of the Mexicans who owned any considerable area of land have been held to be enemies of the revolution, exiled, and their properties seized and in some cases subdivided and distributed to revolutionists.

Sonora is not an isolated case, but is merely typical of what is being done or will be done in many of the other 26 States and Territories if a halt is not called in a manner the Mexicans can not fail to understand.

The great body of the Mexican people are honest, hard-working, and industrious, the same as any other people, and only want a chance to live and better their circumstances in an orderly, just way, but they are now dominated, more to their injury than to ours, by a relatively small Bolshevik element.

As counsel for Americans and American-owned corporations holding about 6,000,000 acres of land in Sonora, I most earnestly implore your consideration of this matter. If we can not get effective and immediate help from the American Government, these enormous investments will be lost.

Respectfully, yours,

M. C. LITTLE.

WITHDRAWAL OF TROOPS FROM RUSSIA.

Mr. JOHNSON of California. Mr. President, I wish to give notice to the Senate that on Wednesday next I am going to ask leave to call up the resolution which has heretofore been introduced by me asking for an expression of opinion by the Senate of the United States that our troops be withdrawn from Russia. I will speak to the subject at that time.

FOOD PRODUCTION.

Mr. WILLIAMS. Mr. President, I hold in my hand a clipping from the Washington Post of this morning, a statement of Mr. Herbert Hoover, which seems to be such a complete reply to all the criticisms that have been lately uttered that I ask leave, without taking up the time of the Senate to read it, to have it inserted in the Record.

There being no objection, the matter referred to was ordered to be printed in the Record, as follows:

AID FARMERS, HE SAYS—HOOPER DECLARES PROBLEM OF FOOD PRODUCTION SERIOUS—WORLD WILL NEED IT ALL—SERIOUS THINKING REQUIRED TO PREVENT PRICES FALLING BELOW A FAIR RETURN DURING THE TRANSITION PERIOD BEFORE SIGNING OF PEACE, THEREAFTER ECONOMIC LAW TO RULE.

PARIS, January 26.

Herbert Hoover, United States Food Administrator and director general of the international relief organization, gave out the following statement to-day:

"The dominating food problem in the United States at this moment is a very much bigger problem than the Chicago packers. It is a problem of the American farmer.

"If the packer's profit of 2 or 3 cents on his turnover is too high, it is the duty of Congress to tax it out of him. If the farmers' prices threaten to fall below the level of a fair return, it behooves the country to do some quick, clear thinking.

"The perplexities arising out of inability to demobilize totally the food situation of the world in the period between the armistice and peace make the farmers' position in the matter of much more immediate concern than the future of the Chicago packers.

ARMISTICE CHANGED SITUATION.

"Taking it broadly, before the European war began we exported about 5,000,000 tons of food a year. This year we are prepared to export at the rate of from 15,000,000 to 20,000,000 tons. The increase represents the patriotic service of the American farmer, plus the voluntary sacrifice of the average American under the stimulation of the pleas from the allied governments that without an enormous increase in our food supplies their very lives would be menaced.

"The submarine had so shortened the world's shipping that the allies were unable to reach the distant markets of the Southern Hemisphere, and we were bound to create in America sufficient food to carry Europe. If the war had gone on, every pound of it and more would have been required by the allies before next harvest.

"The armistice came suddenly, freeing shipping from military use and reopening to the allies the cheaper Southern Hemisphere and the colonial markets, where, in addition, they could have more liberal credits and markets for their manufactures.

IMMEDIATE PROBLEM SERIOUS.

"We are thus faced with a serious problem with respect to our own great supplies, patriotically accumulated. If an early peace is signed and the markets of Europe are opened freely to trade, there will be a greater demand for food from the new mouths than even this surplus could supply. But in the period between the armistice and peace we have a very difficult situation.

"One of the most critical food shortages in the world was that of fats, and the only help lay in an increase in the American hog. Our Agriculture Department and the Food Administration spared no efforts to stimulate this production. Our farmers were assured that in the general shortage, subject only to the uncertainties of war, they would experience no difficulty in marketing their production. Due to the savings of our people and the gradual increased production of our farms, we have lifted our ability to export from 50,000,000 pounds of fats per month in the summer of 1917 to 400,000,000 pounds per month in this January.

"To achieve this mobilization of fats it was necessary to mobilize the packers as well as the farmers. There is no doubt that the vast volume of business brought profit to the packers, although at a less percentage than before the Food Administration took charge of it.

HOW PRICES WERE STABILIZED.

"The allied nations, in order to effect regular supplies to their people in the face of short shipping, and to provide for government rationing, were compelled to take over the entire purchase of these food supplies and thereby abandon the ordinary flow of trade and commerce. In consequence, they concentrated their buying through agencies, and the power of these buying agencies was so great that they controlled the price.

"The business of the Food Administration was to bring these buying agents, the representatives of the farmers, who are predominately interested, and the great and small packers together and see to it that a square deal was obtained all around. The prices were settled in a joint conference of the farmers, the representatives of the allies' buyers, and the great and small packers, under the general arrangement that the packer was allowed but a quarter of a cent a pound over and above the price to the farmer and the cost of raw material and labor for packing. The allies took the entire surplus.

CHANGE CAME OVERNIGHT.

"The situation changed overnight with the armistice. The allies are not only seeking the southern hemisphere markets, but they had also lately accumulated large stocks of fats as an insurance against the submarine menace. Freed from this menace and with the shortage of finance experienced by all Governments, together with the loss in the storage of commodities by deterioration, there is a natural desire on their part to reduce their stocks.

"Other factors have entered into the situation. For instance, the inactive armies and munition workers are consuming less fats, and the vegetable is freed for human consumption. This came upon us immediately with the armistice in early November, in the midst of our heaviest hog-marketing season, which lasts from October until March. When I left home for Europe in November this problem was already facing me as one among many others for which assistance had to be found, in the protection of our American farmer, lest from failure to find a market for his products during the armistice and pending the wider markets of peace his prices might fall below his cost of production, entailing great waste of surplus commodities.

PROTECTION FOR THE FARMER.

"We have found it possible to protect the American farmer in the two and a half months since the armistice. This we have done by co-operating with the allies, in opening wider markets to neutral countries, and by relief shipments into the liberated territories. The next and last six weeks of the high fat-production season will be still more difficult to manage, as peace can not be expected in that time, restoring extended markets.

"On the other hand, five-sixths of this problem is already completed, and by next May, if we have peace and freedom, any surplus that accumulates now will be turned into another world shortage of fats. Indeed, if the entire consuming populations of the world were able to obtain fats to-day, there would be a shortage at this moment, even with our great surplus production.

"Numerous solutions have been proposed. It has been considered that the allied governments should continue to purchase the surplus production of pork products, despite the accumulated stocks and lack of immediate need, and thus protect the American farmer against the surplus provided especially for them. It has been contended that they are under moral obligations to execute the forecasts of their requirements given from time to time through their various agencies.

ALLIES FACE OWN PROBLEMS.

"The allies can, however, contend that they also have great problems of excess production in commodities, such as munitions, which they

have likewise produced under war pressure. They contend that we have jointly fought and won the war; that this is sudden and catches us all with a vast production, which must be faced and liquidated by each of us without undue pressure, one against the other; that they, like ourselves, are entering a period of large employment during the readjustment, and that their people, like ours, need lower food prices.

"The real solution lies in the hope of early peace, and in the meantime the steady demobilization of all restrictions on free marketing of surplus foods except in enemy territory, thus reestablishing the law of supply and demand.

"Practically all restrictions on American food exports have been removed. Progress has been made in lifting neutral blockade restrictions, and further relaxations of blockade measures are under earnest consideration. The readjustment of consolidated buying agencies is hoped for in order that merchants may enter upon trade freely on both sides, and thus secure a normal basis of price determining without any dominating influences.

"It is, however, no more possible to demobilize in a week the whole of these intricate forces set up during the war than it is to demobilize our Army by dismissing it on the field. And pending these solutions our American farmers, merchants, packers, and banks simply must stand together for two or three months to carry our excess surplus over until the markets of the world have been more extended and finally liberated by peace. The meeting of farmers' and packers' representatives called at Chicago on Tuesday has to consider these problems."

DISCHARGE OF MEDICAL OFFICERS.

Mr. KING. Mr. President, there has been considerable criticism of the War Department for failure to discharge soldiers and sailors who were indispensably needed at home. There has been a great deal of criticism pertaining to the discharge of surgeons and physicians who are in the Army. I have received a communication from Surg. Gen. Ireland. I think it is so important that it ought to go in the RECORD, at least. It will be very instructive, or at least illuminating, to Senators. I shall not ask that it be read, but I ask that it be printed in the RECORD.

There being no objection, the matter was ordered to be printed in the RECORD, as follows:

WAR DEPARTMENT,
OFFICE OF THE SURGEON GENERAL,
Washington, January 20, 1919.

Senator WILLIAM H. KING,
United States Senate, Washington, D. C.

MY DEAR SENATOR: In reference to your inquiry as to the reason why the Medical Department is not making more rapid progress in the discharge of medical officers, the department begs to submit the following statement:

There are in the military hospitals in the United States at the present time 66,529 occupied beds. In military hospitals in France there are 120,000 sick and wounded soldiers, of whom between 65,000 and 75,000 are expected to be sent to this country for further hospital treatment. In addition to the above, the Medical Department is, of course, called upon to care for the usual number of sick and injured resulting day by day in an army of 1,000,000 men in the United States. Many of the cases now in this country and of those to arrive from France are soldiers who have been seriously wounded and will need the most expert care to prevent deformity or other permanent disability. It should also be borne in mind that demobilization itself adds to the burdens of the Medical Department, as a large staff of medical men must be provided in each camp to make the required physical examinations of men about to be discharged.

When the armistice was signed on November 11, the department had on duty in this country approximately 16,000 medical officers. Between that date and January 18, 1919, 7,851, or nearly half, of these officers have been discharged from the service.

The large number of medical men still in the service from civil life and the increased amount of sickness prevailing throughout the United States this year has resulted in inconvenience and distress in many local communities. The department fully appreciated this situation and has discharged many officers whose services it could ill afford to lose in order that community needs might be partially met. The Surgeon General must, however, keep constantly in mind that his first responsibility is to provide the soldiers of the United States Army with proper and adequate professional care and to restore those who have been disabled or mutilated to the best possible functional condition before they are discharged from the service.

The fact that the war is presumably over and that there is no longer any prospect of overseas service or of promotion has naturally led to a reaction and a decline in morale among both officers and enlisted men retained against their will for service in our hospitals. Unless the public supports the department in retaining the personnel essential to its continued operation, this unrest will increase and must eventually react on the quality of service rendered the patients.

Your influence and support are earnestly requested in satisfying the people in your State of the continued need of the Army for the services of their medical men.

The fact that medical officers at certain places are for the moment not fully occupied should not be considered as evidence that their services are no longer required, as the peak of the load from overseas has not yet been reached and may not be reached in less than two or three months from date.

Yours, sincerely,

M. W. IRELAND,
Surgeon General, United States Army.

MILITARY TRIALS.

Mr. LODGE. Mr. President, I ask that an article which appeared in the New York World with reference to military trials may be printed in the RECORD, because it is in direct connection with the speech made by the Senator from Oregon [Mr. CHAMBERLAIN] on that subject.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York World, Jan. 19, 1919.]

THE THING THAT IS CALLED MILITARY JUSTICE—CONCRETE OFFICIAL EVIDENCE WHICH ESTABLISHES THAT UNITED STATES MILITARY COURTS-MARTIAL INDORE AND APPROVE OF OPPRESSION AND ARBITRARILY IMPOSE GROSS INJUSTICE—WHENCE COMES THE LAW WHICH MAKES THIS POSSIBLE? FROM CONGRESS—IT HAS ITS ORIGIN IN MEDIEVAL TIMES, BUT ITS BLUNDERING HARSHNESS NO LONGER OBTAINS IN FRANCE, ENGLAND, ITALY, OR BELGIUM—DATA FOUND IN THE 1918 RECORDS IN WASHINGTON, TO WHICH ACCESS WAS HAD BY THE AUTHORITY OF THE SECRETARY OF WAR.

THE AMERICAN BAR ASSOCIATION ACTS—BILL IN SENATE.

Senator CHAMBERLAIN's sensational speech arraigning the administration of justice in the United States Army brought this subject to the attention of the country. Before the Senate on December 30 the Oregon statesman, who is chairman of that body's Committee on Military Affairs, declared that we do not administer military justice according to law, but that it is completely under the control of military commanders who are not obliged to ask for legal advice or to follow it if given them by the responsible law officers of the Army. He cited instance after instance of soldiers sentenced to terms of from 2 to 25 years' imprisonment for comparatively trivial breaches of military discipline.

On January 3 President George T. Page brought the subject of military courts-martial to the attention of the executive committee of the American Bar Association. He denounced the obsolete procedure, the harsh and unequal punishments, and declared that the system was unworthy of the name of law or justice. The committee recorded its conclusions in the following resolution:

That the matter of the administration of military justice in the United States Army be referred to the program committee of this body for its determination as to whether and how it shall be made a part of the program for our annual session, with the accompanying pronouncement that in the opinion of this committee our military law and our system of administering military justice appeals to us as a subject which requires consideration and probably some reformation.

The information set forth on this page was obtained by Rowland Thomas, a member of the World editorial staff, who was sent to Washington to investigate the conditions exposed by Senator CHAMBERLAIN and President Page. He was authorized by Secretary of War Baker to examine the records in the Judge Advocate's office and there found full verification of the conditions that had aroused the indignation of these officials.

On the 13th instant Senator CHAMBERLAIN introduced in the Senate a bill to redraft the laws governing military courts-martial so as to afford protection to soldiers accused by their commanding officers and to stop the imposition of heavy penalties for trivial offenses.

(By Rowland Thomas.)

In November, 1917, twelve old and excellent noncommissioned officers of the United States Army were tried by general court-martial at a camp in Texas. The charge was mutiny, a military offense so grave that the punishment prescribed in the Articles of War is "death or such other punishment as a court-martial may direct."

These men had been engaged in a camp amusement prohibited by a standing order. A young officer, finding them thus occupied and being overquick to assert his authority, ordered them in arrest instead of contenting himself with an admonition. While the men were in arrest he ordered them to drill. That order was in conflict with a general Army regulation which directs that noncommissioned officers in arrest shall attend no formations. The 12 noncoms knew that, and declined to put themselves in the position of violating a general regulation.

Upon their respectful refusal to drill they were summarily stripped of their insignia of rank and placed in the guardhouse. The charge of mutiny was preferred against them. They were tried, found guilty, and sentenced to dishonorable discharge and imprisonment at hard labor for terms ranging from 10 years up to 25. The commanding officer who had appointed the court reviewed and approved its findings and ordered its sentence executed. And from his arbitrary decision the 12 accused had no appeal whatsoever to any judicial power.

These 12 men had been mistried. They were, prima facie, innocent of the crime for which they had been accused and convicted. "Mutiny," by the definition given in the official manual for courts-martial, "imports collective insubordination, and necessarily includes some combination of two or more persons in resisting lawful military authority." These 12 old soldiers had not resisted lawful military authority. On the contrary, the act for which they found themselves "broken" and in penal servitude had been an act of upholding lawful military authority—one of the general regulations of the United States Army—against the infraction of a lawless or ignorant officer of that Army.

The other day I brought this case to the attention of an able and very distinguished member of the American bar. "Considering all those facts," I asked him, "do you see any shading of phrases by which a sane man, lawyer or layman, could seriously refer to any part of that transaction as representing the administration of any sort of justice?"

"On the contrary," was his answer, "what you have cited, were it true, would be a perfect example of the arbitrary imposition of injustice. But do you mean to tell me that happened in our Army?"

"By authority granted me personally by the Secretary of War," I answered him, "I have inspected the legal record of that case. What I have told you is its undisputed substance. The record is in the Mills Building, in the files of what we call our Bureau of Military Justice."

THE BUREAU OF MILITARY JUSTICE.

The Mills Building is in Washington, just across Seventeenth Street from the State, War, and Navy Building. In it are the offices of the Judge Advocate General's Department, which is charged with responsibility for legal matters arising in the Military Establishment of the United States, just as the Medical Department is charged with the equally technical matters of cure and hygiene. And one section of the Judge Advocate General's Department is called the Bureau of Military Justice.

In military justice you—if among the 4,000,000 men who now compose our Army you count a son, a brother, husband, kinsman, friend, or friend's friend or kinsman—have a more immediate and vital personal interest than you probably realize. For on the administration of American military justice depend at this very moment and at every moment while he is in the service the good name, the future prospects, the liberty, and possibly the life of the individual soldier you gave to your country.

In those offices in the Mills Building are preserved the records of 15,719 grave crises which recently arose in the lives of an equal number of American soldiers. They are the harvest of the one calendar year of 1918. And every last one of those almost 16,000 potential and mostly actual personal disasters arose through the working out of the theories and practices of American military justice.

Through the authority granted me by the Secretary of War I last week inspected a representative portion of those records.

Those 15,719 documents were records of 15,719 cases tried by general court-martial in the United States Army, one year's increment in the process of what is trustingly referred to as the administration of military justice. The Judge Advocate General is the technical law officer of our Military Establishment. Therefore, presumably, the public assumes that this must be matter of law, and so matter of justice.

Matter of law it is in one way. It is something legalized by action of Congress. But though the right and duty of captains and sergeants to give certain authorized commands under certain authorized circumstances have also been legalized by Congress, and they therefore might also be called matters of law in that meaningless sense, no one ever confuses them with matters of justice. They are described and recognized always as matters of military authority and command. And so should be described and recognized the matters which come up to the Judge Advocate General's office in the form of records of courts-martial.

COURTS-MARTIAL SENTENCES AT PRESENT MERELY MILITARY COMMANDS.

In the course of a speech in the United States Senate recently Senator CHAMBERLAIN said:

The records of the courts-martial in this war show that we have no military law or system of administering military justice which is worthy of the name of law or justice. We have simply a method of giving effect to the more or less arbitrary discretion of the commanding officer.

If that statement, made on the floor of the senior legislative body of the Nation by the chairman of the United States Senate's Committee on Military Affairs, is true, it raises an issue of grave importance. If it is supported by facts, it raises this question: Shall courts-martial in the United States Army sit as mere instrumentalities of military command or shall they sit as courts of justice administering the law of the land?

And the Senator's statement is fully and amply supported by facts, which my investigation of the records showed. It will be shown you here that while the administration of military justice has been at times progressive and at other times reactionary, like most other phases of human government, it is at this time in this country almost wholly reactionary. It will be shown that though the Bureau of Military Justice in the Judge Advocate General's Department is nominally at the head of the administration of military justice, it is only nominally at the head. It is without legal authority. It does no more than "recommend to a military superior," usually the Chief of Staff, who then exer-

cises his military power of supervision and direction over these recommendations. Under the General Staff act, as construed in present practice, the Chief of Staff exercises the same command over the Judge Advocate General's Department as over the Supply Department. Thereby he has the power to differ, and he does differ, with the head of the Bureau of Military Justice upon matters of pure law, and substitutes instead his own judgment, even though that substitution should extend, as in that mutiny case in Texas, to the point of ordering that, for the purposes of command, wrong shall be right, truth shall be falsehood, innocence shall be guilt, and obedience shall be insubordination.

THE POWER OF MILITARY COMMAND.

It will be shown you that in the United States Army at present judicial power is only a concomitant and incident of military power. It is military power alone which determines whether an enlisted man shall be subjected to court-martial. By virtue of the power of command the military commander determines the sufficiency of the charge and of the evidence upon which a man shall be tried and other similar legal questions. By power of command he details the court-martial and passes on all questions of law arising in the proceedings and all questions of the legality of the proceedings. By power of command he determines the legality of the sentence and orders it executed. All this without independent legal direction or supervision, except that to be found in the "recommendations" of the Judge Advocate General, who is himself subject to superior military authority.

Further still it will be shown you how, from examination of those records which the Secretary of War formally gave me authority to examine, that, even inside the Judge Advocate General's Department, there is an irreconcilable difference of opinion about the proper answer to that tremendous question raised by Senator CHAMBERLAIN—whether in our Army we shall have military law and a system of administering military justice worthy of the names of law and justice or whether we shall have simply a method of giving effect by courts-martial to the more or less arbitrary discretion of commanding officers. It was clearly evident, from official "recommendations" attached to various cases, that in the Judge Advocate General's Department there is a school which believes in the theory that courts-martial are mere instrumentalities of military command, that this is the view of the Judge Advocate General himself, Gen. Crowder, but is not the view held by the officer who, throughout the war, has been Acting Judge Advocate General of the United States Army, nor by most of the officers of the department.

At the beginning of the war the Judge Advocate General's Department consisted of less than a score of officers. It now consists of about 400 officers who have come to it as distinguished lawyers from civil life. These lawyers, I discovered from official indorsements and memoranda attached to records of cases, have found the system not merely antiquated but one admitting on frequent occasions gross injustice and military oppression. Courts-martial try soldiers for all offenses from murder down. They are composed of Army officers ignorant of the rudiments of law. Yet under the present practice of the War Department their judgments, when approved by their camp commander, are final. And the present Judge Advocate General not only believes that the law makes such judgments final but that the law is wise. In one case, in which his views were strenuously opposed by the officers of his own department, he said that military justice was a kind of justice that had to be administered in the camp by the camp commander without legal supervision. This attitude resulted in the denial of the existence of any power in the War Department to correct error committed during these crude trials, though the error might be as prejudicial and unjust to the accused as that committed during the Texas "mutiny" trial. At the outbreak of the war the assistants in the Judge Advocate General's office, appreciating the need of a remedy for such gross wrong, endeavored to revive the revisory power over courts-martial proceedings believed by them clearly to be found in statutes of the Civil War period. The Judge Advocate General himself, though conceding the frequent gross injustice, denied the existence of such a power.

Notwithstanding that attitude, those who have guided the office of the Judge Advocate General since that time and throughout the war have assumed that remedial power must reside somewhere and in some cases of the grossest injustice have succeeded in inducing the Chief of Staff and the Secretary of War to take remedial action.

The task of persuasion was probably made possible for them by a single timely though tragic incident. Shortly after the Judge Advocate General's Department had strenuously denied to itself the power of review, 13 negro soldiers in Texas were tried, convicted, and were hanged the day after their conviction

was reported to the convening authority and approved and confirmed by him. The record of the proceeding in those cases was not forwarded to the Judge Advocate General's Department for the "revision" required by the statute—whatever that term may mean when the power of effective review is self-denied by him—until three months after those 13 negroes had paid the forfeit of their lives. It is important to note here the fact that the camp commander, who thus by the power of military command made himself accuser, jury, judge, and executioner of those 13 men, was the same commander destined later, in the case of the "mutinous" noncoms, to order that inside his jurisdiction right should be wrong.

THE THEORY OF MILITARY JUSTICE.

But, first, a little clearing of the ground is necessary. Just what is military justice? What is a general court-martial?

Military justice, of course, is the process of putting military law into effective action. And military law is the legal system which regulates the government of the Military Establishment. Military law in the United States derives its existence from special constitutional grants of power and is both written and unwritten. Its written sources are the Articles of War, other statutory enactments of Congress relating to the military service, the Army Regulations, and general and special orders and decisions promulgated by the War Department and by department, post, and other commanders.

Its criminal code of procedure is embodied in the Articles of War, which, as enacted by Congress on August 29, 1916, in their present form, consist of 121 articles which, among other matters, define the limits of military jurisdiction, provide the military tribunals through which that jurisdiction shall be exercised, define the offenses for which persons subject to military law shall be brought to trial before these tribunals, and the punishments they shall suffer if found guilty.

Chief of the criminal tribunals of our American military legal system is the general court-martial, which is given power to try a soldier on practically every charge that can be brought against a human being and power to sentence him, if found guilty, to extremely severe punishment. Death, or such other punishment as a court-martial may direct, is the penalty prescribed by 13 of the so-called punitive articles, and such punishment as a court-martial may direct under 29 others. "Such punishment as a court-martial may direct," in the case of a soldier and in a "time of war," like the present, may be dishonorable discharge, forfeiture of all pay and allowances due or to become due during an indicated period of time, and imprisonment at hard labor for any period up to life.

WHAT A GENERAL COURT-MARTIAL IS.

A general court-martial is a body of officers numbering from 5 to 13, the direct appointees of a properly authorized military commander, generally the commanding officer of certain specified military units or areas. It meets, by order of this commander, to try any person whom he orders tried on any charge or charges he may order preferred against that person. The prosecution of the accused is conducted by an officer ordered by the same commanding officer to perform that duty and called a judge advocate, while the accused is given the right to be represented by counsel of his own selection "if such counsel be reasonably available." Since "civilian counsel will not be provided at the expense of the Government," counsel for the accused is always in practice a line officer not a lawyer and generally junior in grade and immature in human experience, who is ordered by the commander who appoints the court to perform the duty of counsel for the defense. He is, if his services be "reasonably available," an officer requested by the accused, and as to his availability the commanding officer has the final decision.

Before a court so constituted, and by a prosecutor and defender so equipped and so appointed, the accused is tried, all questions of law, including pleas, motions, and objections, arising during the proceedings being determined by majority secret vote of the members. After the evidence has been introduced and the statement of the accused and the arguments of prosecuting judge advocate and defending "counsel" have been heard, the court, again by majority secret vote, determines its finding on the law and facts. If the finding is "guilty," it then, by a majority secret vote, determines the sentence to be imposed, and from this judgment, when duly approved or confirmed, no appeal can be taken, nor can the judgment be set aside or reviewed by the courts of the United States nor of any State.

Such final approval or confirmation, except in capital and a few other specified cases, is the act of the commanding officer who appointed the court, and who, as reviewing authority, has the express power to confirm or disapprove the findings or any

part thereof, the express power to confirm or disapprove any part of the sentence, and the power to send the case back to the court for "reconsideration." The final action of the reviewing authority is ordinarily published by promulgation of a "general court-martial order," and after this order has been promulgated the action of the reviewing authority is beyond recall.

SOLDIERS STAND OUTSIDE THE CONSTITUTIONAL GUARANTIES.

All your life you have been safeguarded in certain respects by certain fundamental provisions so complete and so effective that the chances are you never completely realized their existence unless you happen to be a lawyer. You have been so safe you have taken your safety for granted, as you take the daily procession of light and darkness. Under amendments 5 and 6 of the Constitution you, as a citizen of the United States, can not "be held to answer for a capital or otherwise infamous crime unless on a presentment or indictment of a grand jury." You can not "be deprived of life, liberty, or property without due process of law." If you become the subject of any criminal prosecution you "enjoy the right to a speedy and public trial by an impartial jury and to have the assistance of counsel," which last provision has been interpreted over and over again to mean the substantial assistance of qualified counsel.

Those are the inviolable safeguards of the life and liberties of every citizen of this country, "except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger." Then everything is changed.

Then any citizen of this country, if he has made himself, or has been made, subject to military law, may be arraigned for a crime, which is always potentially infamous and frequently is capital, by order of a single individual. And, having been so arraigned, he will be tried, both on fact and law, not by an impartial jury, but by a body of military superiors, and with no substantial assistance of counsel in his defense.

Consider what has happened in the case of a soldier found guilty and sentenced under a general court-martial order. He has been accused and ordered to trial by a man who was not a lawyer. He has been arraigned and tried before a body of laymen. All legal questions arising during his trial have been settled by a secret vote of those laymen. All evidence for and against him has been admitted or rejected by the same process. The question of fact—the question of his guilt or innocence on the strength of the evidence admitted—has been decided by another secret vote of that body of laymen, without competent judicial guidance. And the laymen, in case their finding was guilty, have determined by secret vote what punishment he shall suffer. The record of their action has been sent to the layman by whom they were appointed, and that layman, at his own discretion, has approved or disapproved their findings and sentence, perhaps a revised finding and sentence, given after "reconsideration," at his order. And that layman's decision is absolutely final. From it there is no appeal to any person or body.

And now, how do our commanding officers exercise that enormous power? How does the system work out in the day-to-day practice which brings the records of 15,719 general court-martial cases to the Mills Building as the grist of one year's grinding of the mills of "military justice"?

THE FOUR DEATH CASES FROM FRANCE.

We have already seen how it worked out in the case of those 12 noncoms in Texas whose commanding officer ordered prima facie innocence to be guilty for the occasion and hanged 13 negroes three months before the legal record of their trial reached the responsible law officer of the Army, who, though he had no power to review the proceedings in the sense of ordering them revised or set aside, was expressly charged with the duty of examining their legality and by a "recommendation" calling the attention of his military superiors to any points inconsonant with law or justice.

Let us go further. Here are other illuminating cases. All are taken from the official records in the Judge Advocate General's Department:

During last winter, in France, four men—four boys, of whom the eldest had barely reached 20—were court-martialed and sentenced to be "shot to death with musketry"; two for sleeping on post in a front-line trench and two for disobeying an order to drill. Notwithstanding the seriousness of the charges preferred—both carrying the death penalty—the military authorities convened an inexperienced court of minimum membership, the majority lieutenants recently commissioned. A second lieutenant without any knowledge of law was assigned to the "defense." The two soldiers charged with disobedience this "learned counsel" permitted to plead guilty to a capital offense, though at the same time the accused made a statement, incon-

sistent with this plea, to the effect that because of long exposure for many days before to the intense cold of the mountainous section of France it was physically impossible for them to drill. Upon their plea alone these two were sentenced to death.

The two charged with sleeping on post were tried by the same court and "defended" by the same "counsel." They pleaded not guilty, and made a formal but ineffective defense. It was shown in evidence, however, and not denied by the Government, that the accused had been in the front-line trench for six nights from 5 o'clock in the evening until 7 in the morning, with an actual stand in sentry post of two hours on and one off. No sleeping could be had in such a brief respite, and night after night of such vigilance must bring exhaustion, unless there is a chance for sleep during the short day period. It was testified, and not denied, that it was impossible to sleep in the dugout during the day, because it was used as a place for chopping wood. Furthermore, in one case, the evidence of exhaustion was very convincing, in that the accused had been found asleep once earlier in the evening, about 8 o'clock, and instead of being relieved by the corporal of the guard had been kept on duty, with the result that he was found dozing, as he stood against the trench parapet with his rifle to his shoulder, at about 4 in the morning.

These matters of extenuation the court made no effort to prove or disprove, and should therefore have taken as true. The men were sentenced to be shot to death.

Before the four could be shot the cases had to come to Washington for action by the President, who in this case was the confirming authority, and the Chief of Staff, and, by formality and courtesy, before the Judge Advocate General for his examination and forceless "recommendation." They did so come, and the Judge Advocate General and the Chief of Staff both recommended that the President should uphold the hands of Gen. Pershing and execute the men, the Judge Advocate General stating that it would be unfortunate if the War Department could not agree upon the penalty in those cases.

With the record of those cases I found filed a memorandum written by a high officer of the department, who strongly dissented with the Judge Advocate General in this view. As this dissenter is both an officer of the highest personal repute in the Army and a lawyer whose learning and ability are fully recognized at the bar, it is worth while to note the main points of his position. He said that the same court could not fairly try these four men; that the accused had not had their right of substantial assistance of counsel; that they were young (all under 20, and all volunteers); that their military experience had been brief; and that not one of them had made the slightest fight for his life. Such a defense as each had made, he declared, was not worthy of the name and the trial in the cases was a travesty. He pointed out, too, that Gen. Pershing showed extreme insistence that the death sentences be executed for the sake of example to the Army. Upon this point the dissenter wrote:

"There is an insistence upon the part of Gen. Pershing which tends to prejudice these cases. He seems to have forgot that he is not the reviewing authority. The relation between the appointing authority and the President in these cases is judicial. I do not say that Gen. Pershing may not make recommendations as to the maintenance of discipline in his command; I know he may; but his recommendation in these four cases is a special thing, specially interposed in the course of justice in a special case, and characterized by great insistence. He asks that he be advised by cable of the act of confirmation and makes a powerful argument that they should die, the gist of which is after all to be found in his view of the necessity of exemplary punishment in these cases. It may be that punishment, made especially drastic for the purpose of example, at times has its place and value, but exemplary punishment is dangerous to justice. The execution of all military offenders would very likely decrease the number of future offenses and offenders, but such Draconian methods would destroy justice, without which all else in human society is of no worth.

"It is only right for me to say to you," concluded the dissenter, "that the military mind will, in my opinion, almost unanimously, approve of confirmation in these cases. I do not say that the military feature is to be ignored by the Commander in Chief of the Army. I myself would not ignore it. But when it offends my well-considered sense of law and justice I could not follow it."

The "military mind" did approve of confirmation, but the Secretary of War finally came to the partial relief of these soldiers. Two were pardoned. The punishment of the other two, those who had refused to drill, was commuted to three years' penal servitude. In his formal communication to the

President as Commander in Chief, recommending this exercise of clemency. Secretary Baker raised two points worth noting. Discussing the death penalty as a military punishment, he said:

"It is fair to assume it arose in time and under circumstances quite different from these, when men were impressed into armies to fight for causes in which they had little interest or knowledge, and when their conduct was controlled without their consent by those who assumed to have more or less arbitrary power over them."

And in commenting on the degree of guilt of the two men who refused to drill he points out a circumstance to which no reference appears in any part of the record of their actual trial—that their company commander was an individual whose notorious and violent pro-German sympathies and open objection to fighting against Germany in the Army of the United States, though he bore its commission and lived on its money, later led to his court-martial, dismissal from the service, and sentence to 25 years penal servitude. "Should not," the Secretary asks, "this circumstance have been taken into account by the court in weighing the heinousness of the disobedience of these two boys, and could as high a degree of discipline be justly expected of them as of men whose superiors set them a proper example?"

TWO CASES OF "DESERTION."

These, of course, are extreme cases, having to do with military offenses committed in the face of the enemy. Let us take some nearer home.

There was a soldier in a camp in Alabama, with a wife and aged parents. He had an excellent record. In December, 1917, he went home on a three days' pass and found his father desperately ill. He remained home until some time in May. The evidence, unimpeached, showed that his people were very poor and in extreme need of his help; that he expected his father's death at any time; that he wore his uniform and made no effort to conceal himself, and at all times intended to return to his command. In May the father died. Two days thereafter the soldier reported to camp to resume his duties. He was tried for desertion, found guilty, and sentenced to 15 years.

This case is one of a class numbering hundreds which all show courts-martial convicting of desertion when the essence of the military crime—the specific intent to desert, the definite intention never to return to duty—is negated by the evidence. There are many cases where the evidence shows plainly that boys went home only for a last visit before embarking for foreign service, or for the holidays, or to meet some urgent domestic situation. Such are clearly cases of absence without leave—not the desertion which is, in time of war, a capital offense.

"Too many trivial cases are sent to trial," said Mr. CHAMBERLAIN in the Senate, "too many unduly severe sentences are imposed, and the punishments awarded for similar offenses vary too widely."

That the reader may have an opportunity to judge of that for himself, here is another of these cases of "desertion"; this one from Camp Upton, N. Y. It will show, if nothing else, how completely the fate of an accused and convicted soldier is in the hands of the officer who ordered his court-martial. This soldier was tried for desertion last fall, it being specified that he had left his organization without leave on July 19 and been absent therefrom until September 19, when he was apprehended by the civil police and turned over to the military authorities. At his trial the following matters were put forward in his defense, and no attempt was made to disprove them. About three days before his "desertion" he received word that his youngest sister, whose particular friend, supporter, and counselor he had been, was dying in Bellevue Hospital. He asked for a pass to New York, explaining his reason. After waiting three days in vain he left camp without a pass and reached the city to find that his sister had died three hours before his arrival. It was found that she had let her small insurance policy lapse and the immediate problem of giving her decent burial arose.

The accused and his brothers and sisters possessed among them one liberty bond, which an undertaker finally agreed to accept in payment for his services. After that harassing experience the accused was immediately faced with another. The woman with whom he had lived for several years and who was the mother of his two children was his common-law wife. She had had trouble in obtaining the allotments made her from his pay, with the result that she was in dire need and the feeding and clothing of the children had necessarily been neglected. To top all, her mother, always hostile to the couple because of their irregular marital relation, had threatened to report the condition of the children and have them taken by the Gerry Society. And the young couple knew that, since they were not legally husband and wife, they stood very slight chance of getting their children back if once they were taken away.

Under these circumstances, the young man sought and obtained work at his trade of coal hauling and worked at it all summer. The evidence showed that he made no effort to disguise his status, wearing his uniform frequently, though never when it would be exposed to the dust and grime of a coal yard, and that when it was left in his dwelling no attempt was made to conceal it. The evidence also showed that he and the woman made constant effort to find a position wherein she might support herself and the children, and that as soon as such a position had been secured he instantly made preparations to return to his duty at the camp. When he was apprehended his uniform had actually been cleaned and pressed by a tailor in order that he might make a soldierly appearance when he reported back.

In Alabama, you remember, such an offender, with very similar mitigating circumstances, was found guilty of desertion and sentenced to imprisonment at hard labor for 15 years. It seems reassuring and heartening, for the moment, to learn that in New York the charge against the soldier was reduced by the court to absence without leave and the penalty to confinement for six months, later reduced by the reviewing authority to one month. But is it so very heartening, after all? It is good to be thus assured that we have just and merciful men among the officers in our Army. But should that blind us to the fact that there is no power compelling them to be just and merciful, and that even mitigating and extenuating circumstances must mitigate and extenuate, if at all, only by their arbitrary decision, just as it proved, in the case of those "mutineers" in Texas, that innocence itself must change to guilt when a commanding officer gave a military order to that effect? Is that justice? Is it law?

COMMANDERS ISSUE ORDER FOR "JUDICIAL" SEVERITY.

Touching on this matter of "desertions," the file of orders which I found in the Judge Advocate General's Department in Washington shows that at some camps in the United States the military commander has ordered that absence without leave for 24 hours shall be submitted to a special court-martial, which has a punishing power of six months' confinement and forfeiture of six months' pay, and that cases of more than five days' absence shall be submitted to a general court-martial, with unlimited power to punish, and that in such cases the camp commanders have instructed the courts to punish such cases with severity.

The files also show that frequently when courts acquit the convening authority—i. e., the commanding officer—sends the cases back for "reconsideration," with an argument which, coming from the very source of command, virtually compels a conviction; and that there are many cases tried where every legal or other consideration only goes to show that the trial was a result of a gross abuse of military power. With citation of one more human document this phase of the discussion may be brought to a close. This also is a case from Camp Upton, tried last fall. The charge was absence without leave; the specification, such an absence lasting from July 1 to September 11, when the accused reported back for duty. The plea was not guilty; the finding of the court was guilty. The sentence imposed was dishonorable discharge, forfeiture of all pay and allowances due or to become due, and five years' imprisonment at hard labor. The action of the reviewing authority was a reduction of the imprisonment to three years and suspension of the dishonorable discharge until that term had been served.

The evidence introduced in behalf of the accused, and not only unimpeached but strongly corroborated, was that the young man, who had been a year in the service and proved a cheerful and dutiful soldier with a strong desire to get overseas, had been in civil life the main support of an ailing mother, a sister, and three younger brothers, the father being a drunkard, who did not live at home but was in the habit of returning there whenever he indulged in one of his periodical sprees and setting out to wreck the place, the only member of the family able to exercise any control over him at such times being this elder brother, William.

Between the incubus of this condition in the home he had left behind him and the repeated disappointments, after a year in camp, of being several times ordered to an overseas detachment and then having the embarkation order rescinded, the accused, as he told the court, "got kind of discouraged all round," and on July 1, having failed to secure a pass, went home without one, to find his father on a spree and his mother in bed with weakness and nervous dread. And in that home, standing between that mother and that father, the young man spent the summer.

He wore his uniform and did not make any attempt to disguise or conceal his status. Nay, more, he took up with an official and semimilitary organization, the home branch of the American Red Cross, the question of finding some adequate

means of controlling his father and protecting his mother, short of arrest, the social disgrace of which he was not willing to have his family undergo. This part of his statement was corroborated by the following telegram of the Red Cross to the court which was trying him:

William ———, (address), overstayed last furlough on account father on periodical spree. William alone able to control father at such times. Concealed fact prolonged furlough from mother, who is anxious and sickly.

What criminal lawyer would ask to face a judge and jury with a more moving plea for a client? And what upright district attorney, sworn officer of the court to see that substantial justice is done between the State and the erring individual, would not be strongly moved to enter a nolle prosequi?

What happened during the administration of "military justice"? Amateur "counsel" for the defense summed up these circumstances colorlessly and briefly, humbly admitted that the man he was "defending" had committed a most grave offense, and politely, almost timidly, asked the court to take the matter of the drunken father into consideration, and, if it could, not to be too hard on the drunken father's son.

Judge Advocate for the United States indulged in a burst of oratory. What he said illustrates so well what it is not unfair to term the ailment of the military mind, that it is repeated here verbatim:

As I understand counsel, the accused's difficulty in getting a week-end pass led him to be absent for two and a half months. It must have been a great difficulty that he expected to meet when he met his company commander if he had in mind asking for a pass for the entire months of July and August and the first 10 days of September. I can not believe that a man whose one desire is to get overseas to fight for his country is going to be heartbroken at his failure to get over there at the first possible moment. The fact that a man stays absent for two and a half months indicates that he is a deserter. He is charged with absence without leave, but it is the most serious absence without leave that you could possibly have, without any justification except that there was a drunken father in the family. I think the man should be punished and punished severely.

Five years for William, the civilian in uniform who "got sort of discouraged all round," and then the machinery of our administration of military "justice" took into its maw the next case of those 15,719.

DISCIPLINE IN OTHER ARMIES.

Case after case of similar mold might be added here if space were available. It should be stated definitely as a part of this record that from the historic point of view that the so-called military justice of these United States of ours, besides being blundering and senseless, is archaic—the sole survivor in any decent nation of a system of military discipline which originated in mediæval times and was brought to its full flower by that ardent democrat—Gustavus Adolphus. This system has been abandoned by France, by England, by Italy, by little Belgium; and the spirit and discipline which said, "They shall not pass" at Verdun, which turned the surviving tenth of the "contemptibles," after that fortnight of slaughter and retreat, into the offensive force which smashed the German right for Joffre, which swept the routed Italian armies back to victory, which kept the black and red and yellow of Belgium flying for years never to be forgotten over one small, miserable stretch of marsh and sand dune, were founded on quite a different concept—one which recognized the laws of the land and the rights of men and the fundamentals of justice as being always superior to any mere power of military command however exalted and however necessitous.

It was all this and more that Senator CHAMBERLAIN had in mind when, on the floor of the Senate of the United States, he said:

"The records of the courts-martial in this war show that we have no military law or system of administering military justice which is worthy of the names of law and justice. We have simply a method of giving effect to the more or less arbitrary discretion of the commanding officer."

DR. WILLIAM FREDERICK BADE.

Mr. JOHNSON of California. I have a telegram from Dr. William Frederick Bade, a prominent and well-known citizen of California, who recently was accused of pacifism or of some disloyal or seditious activity by somebody before the subcommittee of the Judiciary Committee without any proof concerning the matter at all. The publicity given to this unproven charge is a shame and an outrage. In justice to him I ask that the telegram from Dr. Bade be inserted in the Record.

There being no objection, the telegram was ordered to be printed in the Record, as follows:

Senator HIRAM JOHNSON.

United States Senate, Washington, D. C.:

Never having been a pacifist, but am an active and outspoken promoter of war enterprises, besides having offered my services to the

Government in several capacities, I earnestly protest against the unjust charge of pacifism as laid against me on the Senate records, a loyal citizen defenseless against such traducing.

WILLIAM FREDERICK BADE.

LEAGUE OF NATIONS.

Mr. KNOX. I ask unanimous consent to have inserted in the Record without reading a portion of the address by Hon. Albert J. Beveridge, formerly a Senator from the State of Indiana, before the Massachusetts Bar Association on the 6th of December, 1918. It is that portion of the address relating to the league of nations.

There being no objection, the matter was ordered to be printed in the Record, as follows:

[From the address of former Senator Albert J. Beveridge before the Massachusetts Bar Association, Dec. 6, 1918.]

"Some excellent and able men now urge that just as the States of the Union have been interlaced into a nation, with concord throughout its dominions, so the nations of the earth shall be similarly united to end strife among all mankind. Why, it is asked, if the States could unite into a nation, surrendering most of their sovereignty to the National Government, should not the various governments of the world form a superstate to which each of these federated nations would yield a part of its sovereignty and obey the decrees of an international authority supreme over all of them?

"This plan, passionately insisted upon under two or three titles, raises the greatest question which the American people have ever been called upon to answer. I have been asked to examine it to-night, but since this can not be done in the brief time remaining I shall merely suggest some of the questions involved.

"If the analogy of the States agreeing among themselves to form a harmonious nation is to be strictly followed, certain results would be inevitable; for example, just as the States, in order to form a nation, gave up the right to pass tariff laws or immigration laws, so the nations comprising the international superstate would have to do the same thing. Indeed, certain foreign champions of this international arrangement urge this very fact as one of the principal reasons why a league of nations should be established.

"If this is not so the analogy fails. The argument based upon a comparison of the union of the States into a nation, with the proposed union of the nations into a world government, would require us to imagine that the States agreed only that they would not fight one another, but kept the right to make tariffs against one another, to regulate or prohibit immigration from one to another, to do the same thing with reference to commerce, and, in short, to act in every way as though each State was a sovereign nation. In short, the States would have agreed not to make war among themselves and yet left open every subject that might cause hostilities. Is it not plain then that this analogy is false, and even absurd?

"The league can be established only by treaty. This treaty binds each member nation to make war anywhere and at any time the league decrees. If America become a member we must, of course, repeal that provision of our Constitution which gives to Congress the exclusive power to declare war. This is admitted. I hear that such an amendment was actually introduced in the Senate. Do we want to abolish that vital provision of our fundamental law? Do we want to bind ourselves and our children forever to make war whether we or they want to or not? Even if we did not formally repeal that section of our fundamental law, would not the result be the same as if we did repeal it, since our honor would be pledged in the treaty to make war, and Congress would be morally compelled to declare it as a matter of good faith to our allies, whenever and wherever a majority of them require it?

"Of course, if the league treaty is not to bind each member to enforce the judgment of the league, then the treaty would amount merely to an agreement that the contracting nations undertake to be good.

"The only reason given for the proposed international superstate is that it may prevent wars by the amicable settlement of disputes. But, on the contrary, does not the plan contain the very seeds of strife? Assume the league in existence, with big and little nations members of it. Suppose two of the larger nations differ radically on some subject which each honestly thinks vital to its well-being. The matter must be settled by a vote of the nations that are members of the league.

"If human nature has not been repealed, would not each of the contending Governments try to get as many votes as possible? Would not this result in, would it not compel, such international intrigue and corruption as the world has never seen? And if one of the disputants should prevail by a single vote or fraction of a vote, would the defeated nation and its associates

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submit? Or would there be a world-wide cry of fraud followed by resistance? Even if war did not result, would not the league dissolve, leaving behind it bitterness and suspicion more intense and long-lived than even some wars have produced?

"As to the actual structure of the superstate, on what basis would it be erected? Would little nations have the same suffrage as big nations? Would Costa Rica have the same voting power as France? Serbia the same as Great Britain? Uruguay the same as the United States? Tibet the same as Japan? If not, what becomes of the principle that the rights and interests of little nations are as sacred as those of big nations? Since the protection of small nations is one of the main purposes of the proposed league, who are so well qualified to pass on their own safety and well-being as the little nations themselves?

"But in case the lesser nations are to have only fractional votes, who shall decide what those fractions shall be? And would the small nations come into the league on fractional representation? But if the little nations refuse to enter the league as inferiors what is to become of their rights, interests, and honor, which it is one of the principal purposes of the league to protect? Or is the league to tell the little nations what is best for them and, by force, make them submit to the league's opinion?

"If this trifling problem should be solved to the full satisfaction and happiness of all nations, another small question arises: What proportion of the international army and navy which is to execute the decrees of the league shall each nation furnish? Shall this be determined upon the basis of population? If so, China would supply more men and ships than all of Europe, the United States, and Japan combined. Shall contributions to the international police force be determined by comparative wealth? If so, the American Nation must furnish the largest contingent. Or shall the rule of allotment be the degree of comparative intelligence? Or shall it be measured by that clearly defined and accurately established standard called 'civilization'? In either case, who is to decide the relative intelligence and civilization of the nations? Would any nation agree that its people are less intelligent and civilized than others? Also, how shall the command of this international army and navy be settled?

"But assume all these questions to be disposed of, as doubtless they readily can be, and the league to be in full and effective operation. What would be the province of the superstate and what our duty in the matter of revolutions in any country? Governments are constantly changing by revolutions, and revolution in one country sometimes causes war between other countries. For instance, the French Revolution caused the war between Great Britain and France; that in turn resulted in the Napoleonic wars. But it is the league's business to prevent wars. Must the league therefore interfere with revolutions? If so, on which side?

"The late Czar was the first authority in modern times to call an international council for the suppression of war. Suppose that gathering had resolved upon a league of nations, of which the United States, Great Britain, France, and other nations, including Russia itself, were members. It would have been the Government of the Czar that signed that treaty. When that Government was threatened with destruction by revolution, would it not have called and have had the right to call on its international partners to help preserve it?

"Suppose a league of nations had existed at the time of our Civil War. If it intervened in that struggle, does anybody doubt what the result would have been? Do we not know that we would to-day be two nations instead of one?

"But let us say that the supposed world superstate agrees to have nothing to do with revolutions, although by so agreeing the very governments forming the superstate may themselves be destroyed. Let us say that the league proposes to intervene not when different parts of a nation are about to fight one another, but only when different nations are about to fight one another. If the combat can not be prevented and hostilities begin, on which side will the league fight?

"If it be said that the superstate will act against the aggressor, how shall it determine which of the belligerents really is the aggressor, since every nation always claims that the other belligerent is the aggressor, and the decision must be made instantly if war is to be prevented. But sometimes it takes many years to settle the real cause of a war. Which nation was the aggressor in the Russo-Japanese War or in the conflict between China and Japan? Each claimed at the time and still claims that the other was the aggressor.

"Moreover, occasionally the real cause of conflict is not admitted by either belligerent, and could not and would not be submitted to any international court or league. For example, the fundamental cause of the Russo-Japanese War probably

was the increase of population in Japan and the necessity for more territory where its people could live, on the one hand, and Russia's historic, natural, and perhaps justifiable desire for ice-free ports on the other hand. Yet this profound reason for the Russo-Japanese collision would not have been admitted by either of the two disputing nations and could not have been settled by an international power. Suppose, then, that since the league could not have dealt with the problem war came, notwithstanding the league's existence. On which side would American soldiers and sailors have had to fight?

"Since one of the objects of the superstate is to protect the territorial integrity, rights, and interests of small nations, what would we, as a member of the league, have been compelled to do in the war between Great Britain and the allied Dutch Republics of South Africa? Or what would have been the league's action when Korea was absorbed by Japan? In our own history, would we have been permitted to wage war with Mexico? If not, what would now have been the situation of that enormous territory which now composes the States of California, Nevada, Utah, Colorado, New Mexico, and Arizona? To-day it is peopled by the freest, happiest, richest men and women on the globe.

"Would we have been allowed to fight Spain? If not, what to-day would be the condition of Cuba, Porto Rico, and the Philippines? No such progress is recorded in history as has been made by the people of those islands since they came under American control; and all of them are under American control. Porto Rico and the Philippines are American possessions, and American suzerainty over Cuba is the most perfect ever committed to paper.

"Is not the proposed world superstate an agreement to maintain perpetually, by arms if need be, the status of the world as it shall be at the time the league is formed? Do we not, as a member of the league, underwrite for all time to come the international status quo and guarantee to maintain it with American blood and treasure? And is this wise or right either for ourselves or the world?

"It is not impossible that the whole thing will taper down to a proposal of a league consisting of a permanent alliance of the United States and the three other leading nations of the world. Already I have heard such a suggestion. The world is to be 'policed' and 'kept in order' by the 'big four.' How Holland and Spain and Belgium and the Scandinavian countries will welcome that scheme! And South America! We can already hear loud cheers from that quarter. And none of the nations outside the combine is to be permitted to say a word about the matter—they can come in on the terms prescribed by the 'big four' or stay out. But in either case the 'big four' will attend to their affairs for them. Does not such a project as this suggested 'league of nations, limited' appear somewhat fanciful, not to say unjust? Would it not create universal antagonisms, jealousies, hatreds? And what possible advantage would America derive from it? Is it not plain that it has most of the evils of an unlimited league and some that are even worse?

"Whether the scheme takes in all nations, or only a few selected governments, are the American people to be allowed to vote on this question which concerns them so profoundly? Are any people to be permitted to vote on it? Apparently not. The arrangement is to be made by gentlemen in Paris, presented to our Senate in the form of a treaty, and put through without any expression by the people of their will in the premises. If it is said that this is the usual method of dealing with treaties, is not the answer that this is not an ordinary treaty? It resembles no other treaty we ever made except in one point: When it is made we must stand by it whether we like it or not.

"That point is worthy of consideration: If we get into the league, we can not get out. No matter how badly it works for us, no matter how much we may come to dislike it, we are bound, in honor, to remain in it. If, in desperation, we broke the treaty and released ourselves, would we not thereby invite war upon us by the other members of the league? Even if they generously refrained from attacking us, could they be expected ever to trust us again?

"But whether we are to be bound to an alliance with many or few nations, what advantages in any direction would America derive from membership in a league of any kind? Or are American rights and interests unworthy of our consideration? If our own well-being is not to be eliminated from our thought, ought we not ask and answer a few obvious questions?

"Take, for instance, our Mexican relations. That country adjoins us. There have been, are, and always will be more American citizens legitimately engaged in business in Mexico and a greater quantity of American capital legitimately invested there than the citizens and capital of all other countries combined. For years we have endured peculiar, shocking, and in-

defensible—almost indescribable—outrages upon American citizens and property in Mexico, and this is likely to occur again.

"As a member of an international league could we do anything whatever to protect American lives, safeguard American property, or maintain American rights in Mexico without the consent of the other nations who are our fellow members in the league? If it became necessary for us to establish the same relations with Mexico that we have with Cuba, could this be done without the sanction of the international superstate?"

"Or take the Monroe doctrine, which concerns the Western Hemisphere and is vital to the development of it. Would not Japan, Great Britain, or Germany have as much to say as ourselves about what that doctrine means and what may and may not be done under it? If we undertake to help settle the disputes among the nations of Europe and Asia, do we not bind ourselves to allow them to have the same voice in the affairs of the Western Hemisphere?"

"If we, with other nations, underwrite the status of canals in the Old World, do we not obligate ourselves that other nations shall, equally with us, control the Panama Canal?"

"Would any beneficial result come to us from membership in this international league? Would not the inevitable consequence be that we involve ourselves in racial and historic antagonisms and complications from which thus far we have kept ourselves free? Would we not surrender every advantage which our situation on the globe, our history, our one unbroken traditional policy, and our resources afford us? Would we not place ourselves in the position of an integral, physical part of the continents of Europe and Asia?"

"It is said that steam and electricity have eliminated the ocean and that nations no longer are separated by water barriers. Is this true? The English Channel is now as effective a bulwark to the United Kingdom as it ever was. That narrow strip of water and a strong fleet have saved England from invasion for nearly a thousand years. From the military point of view it would appear, then, would it not, that, after all, the Atlantic has not been abolished?"

"We are told that we must no longer be 'isolated.' How are we 'isolated'? Not commercially. Not financially. Not socially. We have been 'isolated' only in the political sense, only in the sense that we have not bound ourselves by alliances to mix up in the quarrels of others, only in the sense that we have attended to our own business. Is not that kind of 'isolation' the very thing that is best for us and for the world? If so, why abandon it?"

"All the points that I have suggested are only a few of those involved in the present-day recrudescence of the ancient scheme for a league of nations. There are many others, but the lateness of the hour precludes a mention of them. But do not the ones enumerated show that the international journey which we are asked to take is through an unexplored and perilous jungle?"

"Is it not better for the American people to advance along the highway of America's traditional foreign policy? That policy was formulated after years of thought, experience, and consultation by all the wonderful company of constructive statesmen who laid the foundations of the American Nation. No such group of far-visioned men ever blessed with their wisdom any country at a given time. Call the roll of them: Washington, Hamilton, Jefferson, Adams, Madison, Marshall, and the others of that galaxy of immortals."

"The foreign policy announced by Washington was the product of the combined and profoundly considered judgment of all these men. It was the only policy, foreign or domestic, on which all of them were united. On every other they disagreed. For that alone they stood as a single man. Also that policy has been maintained from that day to this by every American statesman and every American political party."

"For more than a hundred and thirty years the American Nation has progressed along the plain, safe course these men marked out. It has kept us from disastrous foreign entanglements and ruinous foreign complications. It has saved us hundreds of thousands of lives and hundreds of billions of dollars. Why leave it now to wander through a pathless wilderness of alien interests, racial hatreds, historic animosities?"

"Do not the well-being of a great people and the development of a mighty continent present problems hard enough to tax all the strength of the ablest men in the whole Republic? If the concerns of a few million people occupying a strip of seaboard engrossed all the energy, thought, and time of men like 'the fathers' whom I have just named, have any intellects now appeared capable of caring not only for the affairs of 110,000,000 human beings covering an area that stretches from ocean to ocean, but also capable of adjusting all the differences of all the variegated peoples of the entire globe?"

"The situation of the American Nation is peculiar and unique. Geographically it sits on the throne of the world. Its resources are greater than those of all Europe combined. Its history is that of the evolution of a distinct, separate, and independent people. Its mission is no less than to create a new race on the earth and to present to mankind the example of happiness and well-being that come only from progressive, self-disciplined liberty."

"This was the faith of our fathers. By that faith ought we not still abide? The American Nation the supreme love of our hearts, the highest object of our effort and our thought, the American Nation free of hand and unmanacled of foot, marching steadily onward to that destiny to which its place on the globe, the genius of its people, and its orderly institutions of freedom entitle it."

THE COAL SITUATION.

Mr. JONES of Washington. Mr. President, a short time ago complaints were brought to me to the effect that the order by the Fuel Administration of the District of Columbia requiring dealers to store coal for customers at 75 cents a ton was not being enforced, but was being violated by the coal dealers. I introduced and the Senate passed a resolution requiring the fuel administrator to advise the Senate what measures were being taken to enforce that order and also requiring him to state under what authority the order was issued. The fuel administrator, under date of December 16, sent a report to the Senate, which has been on the table. I wish to read one sentence from that report, as follows:

Upon the issuance of said order the same was given wide publicity through the newspapers of the District of Columbia, and up to the present time there has not been called to the attention of the fuel administrator any violation of the same by any of the retail dealers in said District.

Mr. President, my information that the order was being violated came from a very reliable source. One gentleman stated to me that he had called to the attention of the fuel administrator a refusal of the dealer through whom he had purchased his coal to put it in at the price fixed by the Fuel Administration. I have heard of other cases. This report of the local fuel administrator was peculiar, to say the least; and in view of the action of the Fuel Administration now it is still more peculiar. It may be that complaints have increased since he made his answer. Sure it must be that complaints have come to him and he is taking a queer way to enforce his order.

Mr. President, I have here an advertisement headed "United States Fuel Administration, Division of the District of Columbia," which was printed in the Washington Post, I think, of Saturday, and I notice in the paper of yesterday that this advertisement is still being carried. It says:

UNITED STATES FUEL ADMINISTRATION, DIVISION OF THE DISTRICT OF COLUMBIA.

To the public:

In an effort to prohibit the excessive charges heretofore demanded by individuals for the storing of coal in the bins of consumers, the Fuel Administration has issued a regulation to the retail coal dealers of the District of Columbia to the effect that the charge for storing coal shall be at a rate not to exceed 75 cents per ton.

Inasmuch as the dealers are prohibited from charging more than 75 cents per ton and are expected to perform the service at all times without profit to themselves, the general public is hereby requested to co-operate to the extent of refusing to pay individuals more than the above-named amount. Whenever a greater amount is demanded report should be made immediately to the dealer from whom the coal is purchased. In this way it is believed a very annoying situation may be satisfactorily handled. The Fuel Administration has the assurance of all the coal merchants that they will use every reasonable effort to perform this service at the earliest possible moment when requested by the customer.

By a spirit of cooperation and patience between dealer and consumer in this connection, it seems reasonable to expect that the exorbitant costs heretofore experienced may be successfully eliminated.

UNITED STATES FUEL ADMINISTRATION, BUREAU OF DISTRIBUTION FOR THE DISTRICT OF COLUMBIA, 927 Woodward Building.

Mr. President, it is evident from this advertisement that the Fuel Administration is having complaints made to it, and I have no doubt but that complaints had been made prior to the submission of this report to the Senate. Why the statement should be made that none had been made and that things seemed to be going along very well, I do not know. Why spend money for this advertisement? Why does not he prosecute for a violation of his order? Why not cancel permits to carry on business if the order is not complied with? This seems to be a confession that he can not, in fact, enforce the order.

In order to show the real facts of the situation, I ask that the report sent to the Senate may be printed in the RECORD—it is a short report—together with the order and this advertisement printed in the paper to which I have referred.

The PRESIDING OFFICER (Mr. HOLLIS in the chair). Without objection, it is so ordered.

The order is as follows:

UNITED STATES FUEL ADMINISTRATION,
OFFICE OF THE DIRECTOR FOR THE DISTRICT OF COLUMBIA,
Washington, D. C., November 5, 1918.

To all retail coal dealers:

In order to prohibit the excessive charges heretofore demanded by individuals for the storing of coal in customers' bins, it is hereby ordered by the director for the District of Columbia, United States Fuel Administration, that on and after this date no person shall charge a sum greater than 75 cents per ton for the storing of coal.

All retail coal dealers are hereby directed from this day to arrange for and store all coal delivered by them to residences whenever requested by the purchaser at a cost not to exceed 75 cents per ton.

Respectfully,

UNITED STATES FUEL ADMINISTRATION,
By BENJ. WOODRUFF,
Assistant Director for the District of Columbia.
ADDRESS BY R. L. M'KELLAR.

Mr. BECKHAM. Mr. President, I have here an address by Mr. R. L. McKellar, of Louisville, Ky., a brother of the Senator from Tennessee, which was delivered at the Foreign Trade Convention held in New Orleans, La., on the 13th and 14th of this month. It is a very interesting and able address, and I ask permission to have it printed in the Record.

There being no objection, the address was ordered to be printed in the Record, as follows:

COOPERATION AS A NECESSITY IN DEVELOPING FOREIGN TRADE.

[Address of R. L. McKellar, secretary exports control committee, Washington, D. C., at Foreign Trade Convention, New Orleans, La., January 13-14, 1919.]

"One of the most wonderful years in the world's history has come and gone. The greatest war in human history has ended in glorious victory. The most momentous problems that ever faced mankind must be solved in the year on which we are about to enter. To be living in such a time as this is a glorious privilege. To have had a share, however small, in the great things that transpired in 1918 is an honor. To be permitted a part in the work of 1919 is life's opportunity."

These are the words of a Louisville pastor a few weeks ago, and so fitted are they to the spirit of the time that the liberty of repeating them here is taken.

The allies by the courage and endurance of their armies and the unceasing watchfulness of their navies succeeded in holding in check for almost three years the strongest fighting machine the world has ever known. However, the final outcome was problematical until the United States, with the weight of its men, money, and munitions, and the wonderful spirit of its men, turned the scale and menacing militarism was successfully crushed.

The participation of this country in this great struggle was not for conquest, not for expansion, not for aggrandizement, but for the principle of humanity and liberty.

With its successful ending comes the problems of peace and the revival and readjustment of world trade. One of the first commercial problems is what part this country is to take in foreign commerce. Will all the leading nations of the world, now so largely numbered among the allies, enter a mad scramble for this trade and indulge in selfish and wasteful competition, or will it be sought upon the same high principles of right, honor, justice, and fair dealing as have characterized the conduct of the war? Assuming that the same high plane will be adopted, let us determine, if we can, what will be the attitude and policy of the United States in general and the outlook for our southern section in particular.

Prior to the war the domestic business of this country was so ample and remunerative that we were not forced to seek foreign trade other than for surplus production and from our abundance to supply other countries with our raw materials. This condition, however, was changed somewhat during the war period, when foreign trade of leading European nations was practically suspended, with the result that this trade was in part driven to the United States as the only country in position to supply it.

Our attempt to supply this demand has been subject to rigid conservation restrictions, which have served to limit the volume. This restricted experience, however, has been instructive and stimulating, and now that peace is in sight it is found that everywhere in trade circles, and even around the fireside and with the suffragists, foreign trade and its kindred interests are being discussed. Numbers are harkening back to sea, and thought and attention is being turned to the building, manning, and operating of ships and the exchange of commodities with other countries.

The United States Shipping Board is releasing several hundred thousand tons of shipping monthly, and with a merchant marine in early prospect equal to that of any other nation, it becomes necessary for our merchants, manufacturers, and producers to find profitable employment for these vessels and for the output of converted war industries. Furthermore, this country has won the good will of a large part of the world by the unselfish part it has taken in the war, and it is also a fact that the countries of the world have been drawn much closer together and have become better acquainted as the result of the war. Therefore, all things considered, the United States can not longer escape its full responsibility as an exporter of a reasonable share of what it manufactures and produces of the world's needs.

Let us briefly review the relative position of the Gulf ports and in a way take stock of some of the advantages and disadvantages.

The North Atlantic ports, with their immense port facilities, their long-established steamship lines, and their close proximity to the more densely populated manufacturing sections of this country, naturally attract the greatest volume of our export and import commerce.

The Pacific ports also have first call from standpoint of ocean distance to Alaska, the Orient, the Philippines, and Australia. It therefore behooves the Gulf ports to thoroughly analyze their assets and advantages and bring them into complete coordination and cooperation.

It must be realized that the territory tributary to the Gulf does not possess the diversified manufacturing interests to anything like the same extent as the territory adjacent and tributary to the North Atlantic ports, and that the distance from the Gulf to European ports is upwards of 1,000 miles greater than from North Atlantic ports. On the other hand, the territory tributary to the Gulf produces important commodities that Europe must of necessity have, such as cotton, cottonseed products, oil, grain and grain products, naval stores, lumber, and other

forest products. These furnish a base for vessel cargo and insure steamship service to move them. The extension of this steamship service largely depends upon the amount of additional diversified cargo that can be attracted.

To the West Indies, Mexico, Central America, and to both the east and west coast of South America, the distance is in favor of the Gulf.

To the Orient, the Philippines, and to Australia the Gulf is also a factor through the Panama Canal.

These ports are served by approximately 50,000 miles of road. Embraced in this extensive mileage are found strong railroad systems, having a vital interest in the growth and development of the ports they serve, and at each and every one of these ports will be found one or more rail carrier that is not only obligated but peculiarly interested in promoting the best interests of that port. In addition to the 50,000 miles of railway referred to as serving Gulf ports, there can safely be added 20,000 additional railway miles in the nature of connecting lines, north and west, giving in the aggregate 70,000 miles of railway mileage engaged in transporting the products of mines, field, and factory along lines of least resistance to the Gulf. In addition to this total railway mileage, the mileage of navigable streams into the Gulf approximates 19,000 miles, or something over two-thirds of the navigable stream mileage of the entire United States. This substantial water mileage exerts both active and potential competitive force in the way of affording transportation along the lines of least resistance and in the establishment of low rates.

Therefore it can safely be said that the United States will be a strong factor in world trade, and that the Gulf can compete favorably for trade with Europe, Asia, Australia, Philippines, West Indies, Mexico, Central and South America, and Africa. These countries embrace the greater portion of the population of the world.

The subject assigned to me is "Cooperation as a necessity in developing foreign trade."

At this time what seems most necessary is to first determine what are the leading factors essential to foreign trade and to reach a full understanding of what is required of all concerned to meet national competition as we shall find it. The principal factors are exporters and importers; inland transportation, both rail and water; port agencies, facilities, steamship service, and foreign banking facilities. Collateral agencies and instrumentalities are colleges and universities for the training of young men for work in foreign trade, port and interior boards of trade, foreign consuls, commission houses, freight brokers, the United States Shipping Board (including its port and harbor-facilities commission), the United States Department of Commerce, the Pan-American Union, the exports-control committee, foreign trade journals, and the daily press.

If a "chain of influence" and a community of interest and of mutual understanding can be established as between these several agencies and instrumentalities, the foundation for a stable and cohesive foreign commerce is well laid.

I am not here to tell these several agencies and instrumentalities how to conduct their business, and upon the assumption that the fundamentals of purchase and sale and the securing of foreign trade, the Webb law, etc., are generally understood the following observations along cooperative lines are offered:

EXPORTERS AND IMPORTERS.

Exporters and importers should know each other and there should be a measure of cooperation between them in the matter of steamship service, in that steamships require return cargo to insure profitable operation. It is also pointed out that exporters and importers have available to them for the asking much valuable information collected and compiled by the United States Department of Commerce and by the Pan-American Union, also the United States Chamber of Commerce.

RAILROAD TRANSPORTATION.

It can not be fairly said that in the past the railroads have failed to do their part in the development of the export and import traffic which the United States has heretofore produced and consumed. However, when the purposes of Federal operation incident to war have been served and these carriers are turned back to their owners, relieved of the legislative handicaps that have arrested their progress and left free to exercise initiative and to engage in healthful competition, it may not be amiss to have an obligation to develop foreign trade written into their Federal charters. The cooperation of the trained traffic organizations of these several rail carriers is to be had for the asking.

INLAND WATER TRANSPORTATION.

The strong arm of Government aid and control has recently been extended to inland water transportation with the expectation that it will be revived and become an actual factor in transportation. As approximately two-thirds of the total mileage of navigable streams in the United States empty into the Gulf, the ports of the Gulf will therefore be the greatest beneficiaries of this Federal support.

PORT AGENCIES AND FACILITIES.

A considerable volume of traffic is forwarded locally to the ports and from there reshipped to foreign ports.

In the movement of export commerce there are three distinct units of service—first, the movement from point of origin to tidewater terminal; second, the handling from cars or boats, either direct or through storage warehouses, to the ocean carrier; third, the ocean carriage to the foreign port. "A chain is no stronger than its weakest link." Therefore, as the connecting link between the inland and ocean carriage, it is highly essential that port facilities and port service, both manual and mechanical, be efficient and cooperative. At no place is it more important that there should be a full and complete understanding of foreign trade requirements than at ports. Therefore, in all responsible positions calling for expert knowledge and experience high-class talent should be employed.

OCEAN TRANSPORTATION.

Ocean transportation is now a crying need everywhere. The merchant marine of every country has been largely depleted by submarine losses, and present ocean tonnage is scarcely more than sufficient for the transportation home of the demobilized troops, together with the necessary food supplies for the allies and for the starving populations of Europe.

Commercial exports long suspended are accumulating at the factories and at the ports impatiently awaiting transportation to foreign destinations. A tremendous responsibility rests upon the United States Shipping Board in supplying the present and prospective needs of this commerce, and business as a whole, supported by the Federal administration and a popular demand, is looking with confidence to that organization to fulfill this responsibility to the extent of supplying this country with a merchant marine second in size to none in the world, and or-

ganized and equipped to meet the legitimate competition of other exporting nations. Gulf ports will no doubt be assigned a liberal share of the vessels released by the Shipping Board, but in the meantime it will be well for these ports to support and encourage to the limit their existing steamship lines and at the same time reach out and secure additional lines. In this endeavor the humble "tramp," in which the greater part of Great Britain's immense foreign commerce is transported, should not be overlooked or underestimated.

FOREIGN BANKING FACILITIES.

The leading banking interests of this country are to be congratulated upon the aggressive, constructive work that they have been doing in recent years to provide necessary banking facilities in foreign countries for American commerce. It is true that the establishment of foreign branches is so far limited mainly to a few of the larger eastern financial interests, but the necessity for extension is recognized and the system is growing, with result that banks in the interior and at southern ports are rapidly acquiring foreign departments and either have formed or are forming foreign connections that will ultimately result in banking arrangements being available for customary use at whatever port through which a foreign shipment moves.

The establishment of foreign branches by Federal reserve banks is no doubt receiving the special consideration this deserves.

COLLEGES AND UNIVERSITIES.

A systematic campaign should be inaugurated with all colleges, universities, etc., for the purpose of placing clearly before them the educational needs of this country in foreign trade. There will be a wonderful field for well-educated young men in Consular Service and also in foreign-trade service, and it will be well for colleges and universities to offer special courses in these studies. The Bureau of Foreign and Domestic Commerce will need any number of consuls and commercial attachés in foreign countries, and manufacturers in this country will need traffic managers who are familiar with foreign trade, and these same manufacturers will also need well-educated young men to represent them in foreign countries.

COMMERCIAL ORGANIZATIONS.

Boards of trade and other commercial organizations at the ports, also in the interior, can be of inestimable value in stimulating interest and disseminating information in connection with foreign trade. All leading organizations now have foreign-trade committees specializing in this work, and many employ foreign-trade experts to study and keep their exporting members advised of rapidly changing conditions in overseas markets, customs, laws, and port regulations brought about by the war. The value and importance of this work will steadily increase with the restoration of normal trade conditions, and organizations not thus equipped may well give early consideration to catching step.

A large number of southern manufacturers and producers have heretofore been somewhat reluctant to engage in foreign trade, and it largely rests with the commercial organizations of the South to overcome this reluctance and thereby weld the first links in a community of export interests. An excellent first aid in this work is a branch or district office of the Department of Commerce.

COMMISSION HOUSES, TRADING COMPANIES, AND FREIGHT BROKERS.

These are essential adjuncts to foreign commerce, and their value should be recognized and supported accordingly and their assistance fully utilized. In normal times a goodly part of the total volume of the foreign trade of the great port of New York is transacted through these agencies.

FOREIGN CONSULS.

Resident representatives of foreign governments are in position to furnish much valuable information as to the needs and methods of the countries they represent, and these representatives will no doubt willingly become a part of a community of export interests.

THE ARMY AND NAVY.

Every port of importance is used more or less by the Army and Navy, and the good will, support, and cooperation of officers of the Army and Navy will prove of great value to any port.

EXPORTS CONTROL COMMITTEE.

This committee is composed of a responsible representative of the War Department, Navy, the shipping control, the allies, and the United States Railroad Administration. It is the duty of this committee to inform itself as to the probable amount of freight which must be exported for the prosecution of the war; how this war freight and commercial exports can be best routed through the various ports; how much other essential export traffic has to be handled; and the amount of local traffic necessary for each port. The committee has authority to select the port to which specified freight shall be transported for shipment overseas and to decide the distribution of the combined amounts of all exports as between the various ports to facilitate its handling and avoid congestions. In the exercise of these functions this committee has divided the United States into eight zones and has issued a zone routing chart, in which due provision has been made for movement through Gulf ports. Since the conveying of merchant vessels has been discontinued the merchant fleet as a whole has been more liquid, with the result that southern ports can be more freely used than during the period of the war, when the shortest ocean voyage was necessary in order to economize in ocean tonnage and convoy service.

The overseas food program for the current year will be something immense and Gulf ports are already being extensively used in the handling of grain, flour, canned goods, etc., and the expeditious handling of this movement at ports can not be too strongly emphasized.

UNITED STATES RAILROAD ADMINISTRATION.

It will no doubt be of interest to know that the United States Railroad Administration at Washington is planning a comprehensive foreign trade program, including the relationship between inland and ocean transportation, relative adjustments of export and import rates, through rates and routes, service, etc. Gulf ports will no doubt be given full opportunity to submit recommendations, and an early suggestion might be to establish joint steamer and rail passenger rates and service from the west coast of South America, through the Panama Canal and New Orleans, thence via rail through the Southern States to Washington and New York, and thence via Atlantic steamship lines to British and continental ports.

FOREIGN TRADE JOURNALS AND THE DAILY PRESS.

Interesting and instructive publicity and the power of the press are essential to the successful welding of a chain of influence and the formation of a community of export interests.

In Washington, and in administration circles, the ports of the United States are classified and considered as being in four groups—the North Atlantic, the South Atlantic, the Gulf, and the Pacific. This convention has been called in the interest of all Gulf ports. It is most timely and opportune, and the commercial organizations of New Orleans are to be congratulated upon making this a sectional rather than an individual port gathering. The one-port idea, either on the Atlantic or the Gulf, is un-American.

The camps at home and abroad are demobilizing and the boys are coming home. The War Industries Board and its priorities committee have served their usefulness and have disbanded. The War Trade Board is still functioning, but its restrictions on both exports and imports are being rapidly canceled. The Shipping Board and War Department are releasing vessels commandeered for war purposes and returning them to their owners for replacement in commercial service. Now vessels are being turned out from our shipyards in increasing numbers and shipping of other countries is also finding its way to our ports for landing heretofore inaccessible. In the words of one of our leading manufacturers in a recent circular, "We are now confronted with peace."

We face the threshold of a new era in the world affairs and the call is for a program of constructive foresight. May our great country be as farseeing, high-minded, unselfish, and also as successful in peace commerce as in war, and may the Gulf ports of New Orleans, Gulfport, Mobile, Pensacola, Tampa, Key West, Orange, Beaumont, Port Arthur, Texas City, Houston, Galveston, and Aransas Pass, with cooperation and good faith and fair dealing, enjoy a full measure of the world's commerce.

ALLOTMENT TO SOLDIERS.

Mr. VARDAMAN. Mr. President, I shall not encumber the Record with the number of letters which I have received during the last week from mothers, fathers, and wives whose sons and husbands are in the Army and who for a number of months have had withheld from them the small pittance which the Government pays and which the soldiers set aside for their support; but I shall content myself with expressing my regret at the system used for the payment of these obligations which the Government owes to the dependents of soldiers, a system which is so defective that actual want and suffering has resulted therefrom. I saw a letter this morning from a gallant young officer who has been at the front in France since July and who has won distinction for valor, which stated that not a dollar of his pay set aside for the support of his family has been delivered to them by the Department. It is an outrage. There can not be any excuse for such gross inexcusable carelessness. It is no justification to say there is a scarcity of clerks and an accumulation of work in the departments. If the soldier at the front had done nothing but render an excuse of that kind for failure to be at the proper place to meet the enemy, the American colors would have been dishonored. The soldier has been at his post, he has done his duty to his country, while his Government at home has neglected his family.

I shall not put these letters in the Record. I would do so if it would do any good, but I am quite sure it would accomplish no good. But I take this method of expressing the hope that the department will pay more attention to these vital matters in the future and relieve the suffering of the dependent relatives of the soldier. It is enough to ask the soldier to give his life if need be in defense of his country or suffer the hardships of war without imposing upon him anxiety and worry regarding the welfare of his family at home.

LANDS IN OREGON.

The VICE PRESIDENT laid before the Senate the amendments of the House of Representatives to the bill (S. 2784) to authorize the purchase by the city of McMinnville, Ore., of certain lands formerly embraced in the grant to the Oregon & California Railroad Co. and reverted in the United States by the act approved June 9, 1916, which were on page 2, line 13, after "shall," to insert "first"; on page 2, line 16, to strike out "that may be classified as agricultural"; and on page 2, line 17, strike out "reasonable."

Mr. McNARY. I move that the Senate concur in the amendments of the House.

The motion was agreed to.

HOUSE BILLS REFERRED.

H. R. 14746. An act making appropriations for the current and contingent expenses of the Bureau of Indian Affairs, for fulfilling treaty stipulations with various Indian tribes, and for other purposes, for the fiscal year ending June 30, 1920, was read twice by its title and referred to the Committee on Indian Affairs.

The following bills were read twice by their titles and referred to the Committee on Pensions:

H. R. 14894. An act granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent children of soldiers and sailors of said war; and

H. R. 14945. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and certain soldiers and sailors of wars other than the Civil War and to widows of such soldiers and sailors.

SENATOR FROM MICHIGAN.

Mr. POMERENE. I present a favorable report (No. 664) from the Committee on Privileges and Elections on Senate resolution 415 and ask that the resolution be referred to the Committee to Audit and Control the Contingent Expenses of the Senate.

The VICE PRESIDENT. The report will be stated.

The SECRETARY. The Senator from Ohio reports from the Committee on Privileges and Elections Senate resolution 415, referring to petition of Henry Ford contesting the election of Truman H. Newberry as a Senator from Michigan to the Committee on Privileges and Elections, and authorizing said committee to take possession of the ballots, poll books, tally sheets, and documents, and to make investigation and take all necessary proceedings relating to said contest.

Mr. LODGE. I ask that the report go over until to-morrow.

Mr. POMERENE. I did not hear the request.

Mr. LODGE. I ask that the report go over until to-morrow under the rule, and that it be printed.

Mr. WATSON. Are resolutions now in order?

The VICE PRESIDENT. Let us get the report from the Committee on Privileges and Elections straightened out. How does it go over for a day when it has to go to the Committee to Audit and Control the Contingent Expenses of the Senate?

Mr. LODGE. It is the report of a committee.

The VICE PRESIDENT. Where does it go now?

Mr. LODGE. All reports of committees shall lie over for one day for consideration unless by unanimous consent.

The VICE PRESIDENT. For consideration?

Mr. LODGE. For consideration. The motion to refer to the Committee to Audit and Control the Contingent Expenses of the Senate is a debatable motion.

The VICE PRESIDENT. It is not debatable. Under the statute the report must go to the Committee to Audit and Control the Contingent Expenses of the Senate.

Mr. LODGE. It is debatable on the question of whether or not it shall be referred at all.

The VICE PRESIDENT. No; it is not debatable. These expenditures, if they are to be made, have to be authorized by the Committee to Audit and Control the Contingent Expenses of the Senate.

Mr. LODGE. There are no exceptions in the rule about reports of committees, Mr. President.

The VICE PRESIDENT. The rule is that they shall lie over for consideration.

Mr. LODGE. Very well. It is a debatable motion. Any motion to refer is debatable.

The VICE PRESIDENT. No motion to refer is needed. It is to be referred under the statute.

Mr. LODGE. I think that it is debatable, because the Senate may decide not to refer it, as they have done on more than one occasion.

Mr. POMERENE. Mr. President—

The VICE PRESIDENT. It is no matter to the Chair, except to get this matter straightened out. The Chair is of opinion—

Mr. LODGE. I did not know a point of order had been made, but if it has been made, of course, I should like to discuss it.

Mr. POMERENE. Mr. President, I assume that this report would go to the Committee to Audit and Control the Contingent Expenses of the Senate automatically. If a motion is not necessary, I withdraw it, and leave the matter for the disposition of the Chair as to what shall be done.

The VICE PRESIDENT. The Chair has no interest in what becomes of it except to know where it goes. When reports are submitted and lie over a day for consideration they go to the calendar; that is where they go ordinarily. The inquiry which was made by the Chair was to ascertain what to do with this report.

Mr. LODGE. Mr. President, the rule seems to be pretty clear. It reads:

All reports of committees * * * shall lie over one day for consideration.

That does not take it to the calendar.

The VICE PRESIDENT. Then the Chair would like to ask the Senator from Massachusetts where such matters go?

Mr. LODGE. Like all other reports and resolutions, they lie on the table, subject to call; they come up automatically. I never heard of a report being debated and put through in the manner suggested if it was asked to have it lie over.

The VICE PRESIDENT. There would be an interesting situation here if everything came up automatically.

Mr. LODGE. If a report lies over one day, and is printed, of course it comes up automatically. That does not carry it to the calendar.

The VICE PRESIDENT. In order to settle the matter, the Chair refers this report to the Committee to Audit and Control the Contingent Expenses of the Senate. From that action of the Chair an appeal may be taken.

Mr. LODGE. I should like to have an opportunity to discuss that. I appeal from the decision; and I should like to make the point that the rule is perfectly explicit. It says, "All reports of committees," without exception. It does not except a reference to the Committee to Audit and Control the Contingent Expenses of the Senate. The provision relative to reference to that committee comes under the statute.

I also make the point that it is subject to debate at this stage; that there is no provision of the rules that can cut off debate. I should be glad to know if the Chair is of opinion that the motion to refer to the Committee to Audit and Control the Contingent Expenses of the Senate is a nondebateable motion.

The VICE PRESIDENT. No; the Chair thinks it is debatable. The Chair is ruling that, in the view of the Chair, whenever the proposal is to spend money out of the funds of the Senate, before the proposition can be considered by the Senate, it must go to the Committee to Audit and Control the Contingent Expenses of the Senate. It goes there automatically under the statute.

Mr. LODGE. Then I understand the Chair to say that it goes to that committee because the Senate can not consider the proposition until the committee has passed upon it; and yet the Chair has just stated that the question is open to debate.

The VICE PRESIDENT. The appeal from the ruling of the Chair is open to debate.

Mr. LODGE. That is just the point I wanted to get at. Do I understand the Chair to say that the motion to refer to the Committee to Audit and Control the Contingent Expenses of the Senate is not a debatable motion?

The VICE PRESIDENT. There is no such motion pending. The Chair referred the report to that committee on his own order.

Mr. LODGE. On the contrary, Mr. President, the Senator from Ohio [Mr. POMERENE] moved, and properly moved, that it be referred to the Committee to Audit and Control the Contingent Expenses of the Senate.

Mr. POMERENE. Mr. President, if I may correct the Senator from Massachusetts, it is true I did make the motion in that way; but, in view of the statement which was made that the report went automatically to the Committee to Audit and Control the Contingent Expenses of the Senate, I withdrew that motion.

Mr. LODGE. The Senator from Ohio made the motion which is always made in such cases.

The VICE PRESIDENT. And withdrew it.

Mr. LODGE. And he withdrew it on the suggestion of the Chair. If I may have a moment to examine the rule as to nondebateable motions—

The VICE PRESIDENT. The Chair is not trying to stop debate. The Chair is trying to settle this question of procedure, and has ruled—

Mr. LODGE. What has the Chair held?

The VICE PRESIDENT. The Chair has ruled that the report goes automatically to the Committee to Audit and Control the Contingent Expenses of the Senate. From that ruling of the Chair the Senator from Massachusetts has appealed to the decision of the Senate. The Senator from Massachusetts can talk on that as long as he pleases.

Mr. LODGE. I also wanted to ascertain—because it is an essential part of it—whether the Chair rules that it is now out of order to debate the resolution.

The VICE PRESIDENT. To debate the resolution?

Mr. LODGE. Yes.

The VICE PRESIDENT. Nothing is out of order when a Senator has a right to debate. He may talk about anything he pleases.

Mr. FLETCHER. Mr. President, I raise the point of order that the appeal from the decision of the Chair is not debatable. Rule XX covers that. It provides as to appeals from the decision of the Chair:

And every appeal therefrom shall be decided at once, and without debate.

Mr. LODGE. Very well, Mr. President. Of course, I am aware of that rule; but there has been debate upon the matter, and I never before knew debate in such a case to be cut off. However, in view of what is intended, I quite understand why debate is desired to be cut off.

Mr. REED. Mr. President—

The VICE PRESIDENT. Just a moment. There is no use getting excited about this. The Chair does not sustain the point of order, but rules that the appeal is debatable.

Mr. LODGE. Mr. President, I can only reiterate what I have said, that the rule seems perfectly clear. It says:

All reports of committees—

This is a report of a committee—

shall lie over one day for consideration, unless by unanimous consent the Senate shall otherwise direct.

I can not see what excepts this report from the rule. There is no rule about it automatically going to the Committee to Audit and Control the Contingent Expenses of the Senate. The statute requires it; but I have seen in this Congress a resolution debated on the question of a matter going to the Committee to Audit and Control the Contingent Expenses of the Senate before it was sent to that committee. It is entirely within the power of the Senate to dispose of the report without sending it to that committee, and if they have that power it must intervene.

Mr. JONES of Washington. Mr. President—

The VICE PRESIDENT. Does the Senator from Massachusetts yield to the Senator from Washington?

Mr. LODGE. I yield.

Mr. JONES of Washington. I desire to suggest to the Senator from Massachusetts that my recollection of the provision of the statute is that it simply provides that warrants can not be paid until they have been referred to the Committee to Audit and Control the Contingent Expenses of the Senate. The statute does not require that a resolution shall be referred to that committee at any particular time, but only that there shall be such reference before the warrants are paid.

Mr. LODGE. I have not the statute here, because I did not come prepared, I am frank to say, for any such ruling as has been made. I never before knew a report of a committee to be ruled to be not subject to the provisions of Rule XXVI, and therefore I am not prepared upon it at all. I should like to have an opportunity to present the statute so that the Senate may at least know on what ground this ruling excepting this kind of a report from all other reports is made. I should like to have long enough time at least to get the statute, because I am not aware that the rule requires anything of the sort.

EMPLOYMENT OF ASSISTANT CLERK.

Mr. OVERMAN. Mr. President, if the Senator from Massachusetts desires to send for the statute I should like to ask that the pending matter may be suspended for a few moments.

Mr. LODGE. If I could have a few moments to procure the statute I should be obliged, and I shall not object to the matter being passed over for a moment or two in order that I may procure the statute.

Mr. OVERMAN. If that may be done, Mr. President, I should like to submit a resolution of somewhat similar character. I inquire if I can do that?

The VICE PRESIDENT. By unanimous consent; yes.

Mr. OVERMAN. I submit the resolution which I send to the desk.

Mr. CUMMINS. What is the resolution? I should like to have the regular order preserved as far as possible.

Mr. OVERMAN. It is a resolution on behalf of the Committee on the Judiciary providing for the continuance of the employment of an additional clerk. I am aware that we have not reached the point of presentation of resolutions. I am trying to save time, and, Mr. President, if there is no objection, I submit the resolution which I send to the desk.

The VICE PRESIDENT. Without objection, the Secretary will read the resolution.

The Secretary read the resolution (S. Res. 424), as follows:

Resolved, That the authority given to the Committee on the Judiciary by Senate resolution No. 325, agreed to October 24, 1918, to employ an assistant clerk at a salary not to exceed \$5 per diem, for a period not to exceed four months, be, and the same is hereby, extended and continued in full force and effect until the end of the Sixty-fifth Congress.

Mr. LODGE. What is that resolution?

Mr. OVERMAN. The resolution submitted by me naturally goes to the Committee to Audit and Control the Contingent Expenses of the Senate.

Mr. TOWNSEND. Mr. President, I did not catch the import of the resolution, and I ask that it be read again.

The VICE PRESIDENT. The Secretary will read the resolution.

The Secretary again read the resolution.

Mr. BORAH. Mr. President, if we are not ready to proceed with the other matter, I ask unanimous consent—

The VICE PRESIDENT. Here is the statute that the Senator from Massachusetts desires.

Mr. LODGE. I have it now, Mr. President.

Mr. OVERMAN. Mr. President, I presume the resolution submitted by me will go to the Committee to Audit and Control the Contingent Expenses of the Senate.

The VICE PRESIDENT. That is the way the Chair has been referring such resolutions. The Chair is trying to find out whether he is right or not.

Mr. OVERMAN. Do I understand that my resolution has been referred to the Committee to Audit and Control the Contingent Expenses of the Senate?

The VICE PRESIDENT. The Chair will refer it there if there is no objection. The Chair hears no objection, and it is so referred.

SENATOR FROM MICHIGAN.

Mr. LODGE. Mr. President, Rule XXV, relative to the appointment of committees, provides:

A Committee to Audit and Control the Contingent Expenses of the Senate, to consist of five Senators, to which shall be referred all resolutions directing the payment of money out of the contingent fund of the Senate or creating a charge upon the same.

There are similar provisions in regard to the Committee on Enrolled Bills and duties and powers of other committees. The law says:

Hereafter no payment shall be made from the contingent fund of the Senate unless sanctioned by the Committee to Audit and Control the Contingent Expenses of the Senate, or from the contingent fund of the House of Representatives unless sanctioned by the Committee on Accounts of the House of Representatives.

That statute merely provides for the necessary steps to legalize the vouchers.

Mr. President, I contend that neither of those provisions exempts this report from the rule covering all reports.

The VICE PRESIDENT. What has the Senator to say about the plain statement that all resolutions of the nature indicated shall be referred to the Committee to Audit and Control the Contingent Expenses of the Senate?

Mr. LODGE. Of course they must ultimately go there; there is no question about that; but there is no provision that any report shall be exempted from other rules. The question of whether or not a report shall go to the Committee to Audit and Control the Contingent Expenses of the Senate is a debatable question, because the Senate may decide not to send it there, and in that case it fails.

Mr. OVERMAN. If it is not sent there the law is violated.

Mr. LODGE. It does not violate the law if the Senate decides to send it to a different committee and kills it.

Mr. SMOOT. Mr. President, a week or so ago the Senator from Nebraska [Mr. HITCHCOCK] submitted a report from the Committee on Foreign Relations, I believe, which involved the expenditure of money. I then read to the Senate from the statute and suggested that the resolution ought to go to the Committee to Audit and Control the Contingent Expenses of the Senate. The Chair overruled that contention, and the resolution never did go to the Committee to Audit and Control the Contingent Expenses of the Senate, but it went to the Committee on Foreign Relations for further consideration as to whether or not that committee desired to incur the expenditure. I do not know whether that governs this case. I have been trying to look it up, but have not time to do so.

Mr. POMERENE. Mr. President—

The VICE PRESIDENT. If the Senator will pardon the Chair for a moment, this question has been a source of constant irritation to the Chair ever since the present occupant assumed his present position as to what is the right or wrong thing to do about these questions which are constantly arising. In the case of the resolution of the Senator from Nebraska the question was whether the resolution submitted by him should go first to the Committee to Audit and Control the Contingent Expenses of the Senate or to the Committee on Foreign Relations. It was finally decided to send it to the Committee on Foreign Relations. All the Chair wants—and he has purposely brought the question up here—is to get a definite ruling of the Senate as to whether or not these resolutions can lie over a day and then be debated, as to whether they may go to some other committee, or whether, under the statute and the rule, they shall go to the Committee to Audit and Control the Contingent Expenses of the Senate in the first instance.

Mr. SMOOT. Mr. President, the other day I took the ground that they ought to go to the Committee to Audit and Control the Contingent Expenses of the Senate, but the Chair ruled otherwise, and on an appeal he was sustained by the Senate.

The VICE PRESIDENT. The Chair remembers that very well. The question occurred at that time on the introduction of the resolution originally. The Chair is only seeking a ruling of the Senate.

Mr. LODGE. Mr. President, if I may be pardoned for saying so, the provision in regard to powers of the Committee to Audit and Control the Contingent Expenses of the Senate does not draw any distinction whatever between the stages of a resolution. It says "all resolutions directing the payment of money." If the ruling of the Chair is correct as to this stage, then any resolution at any stage must go to that committee. When it is introduced it must go to that committee; such a reference must be preliminary to any action on any resolution that involves a charge. That never has been the habit. Resolutions involving a charge are constantly reported to other committees for a prior decision, for the very simple reason that if the resolution is not to pass there is no need of sending it to the Committee to Audit and Control the Contingent Expenses of the Senate. This seems to me simply another stage, and I am unable to see anything in any rule that distinguishes the report now presented from all other reports.

The VICE PRESIDENT. The question is, Shall the ruling of the Chair stand as the ruling of the Senate?

Mr. SMITH of Georgia. Mr. President, I find in the precedents that Vice President Sherman on May 15, 1909, ruled expressly that a resolution carrying an expenditure of money could not be considered by the Senate on its merits, but should go first to the Committee to Audit and Control the Contingent Expenses of the Senate.

I find further along that again, on July 28, 1911, he ruled, after the rule had been quoted which recites, referring to the Committee to Audit and Control the Contingent Expenses of the Senate:

To which shall be referred all resolutions directing the payment of money out of the contingent fund of the Senate or creating a charge upon the same.

The Senator's amendment proposes a charge upon the contingent fund in excess of the statutory limitation, beyond which the Senate can not go without a reference to the committee, and it involves a matter which has not been considered by the committee. That is the impression of the Chair, and the Chair feels constrained to sustain the points of order.

Mr. LODGE. Mr. President, that was in the case of a resolution appropriating money.

Mr. SMITH of Georgia. Yes.

Mr. LODGE. That is a very different thing; that was not the report of a committee.

Mr. SMITH of Georgia. It was a resolution, however, providing for an appropriation out of the contingent fund.

Mr. LODGE. Certainly.

Mr. SMITH of Georgia. As I understand, this is a resolution providing for an appropriation from the contingent fund, is it not?

Mr. LODGE. Yes; it involves that. That is not the whole purpose of the resolution, of course.

Mr. SMITH of Georgia. Again, on January 9, 1913, the subject was under very frequent discussion; and Senator Bacon in the chair, following a view presented by Senator Works, held that the Senate could not pass upon a resolution carrying an expenditure from the contingent fund until it was referred to the Committee to Audit and Control the Contingent Expenses of the Senate.

Just where that leaves the question still is not perfectly clear. I remember the case that we had a day or two ago, when we asked the opinion of the Committee on Foreign Relations before considering the subject at all. I can not see how the Senate could undertake to pass upon such a resolution without first sending it to the Committee to Audit and Control the Contingent Expenses of the Senate, and it seems to go there automatically without a motion.

Mr. LODGE. Mr. President, if the Senator will allow me, this is not a proposition simply to spend money. This is a report of a committee. It comes under the head of a report. This particular resolution is for two purposes—a double purpose. The expenditure is merely incidental. The Senate may decide to take any action with that report. They may recommit the report, which will carry it back to a stage where it is admittedly open—that is, back to the committee. The Chair has just held that where there is a choice in sending it to one of two committees it may go to one of those two committees. This is a report, and I say there is nothing that I can find in any rule or statute that takes it out of the general rule governing reports. The object of that rule governing reports is to give the Senate an opportunity to see what the report is.

Mr. SMITH of Georgia. But the resolution is carried with the report.

Mr. LODGE. Ultimately it must go to the committee. No one doubts that.

Mr. SMITH of Georgia. And the resolution should be considered by the committee before we act upon the resolution.

Mr. LODGE. Not necessarily. We may recommit the report to the committee that has already reported it.

Mr. SMITH of Georgia. Because the friends of the movement, whatever it may be, would certainly be at an unfair disadvantage if they were compelled to discuss a resolution on its merits for final action when they could not act favorably upon it without first sending it to the Committee to Audit and Control the Contingent Expenses of the Senate.

Mr. LODGE. Mr. President, my point is that this setting aside the general rule covering reports involves making it a nondebatable motion. That is, it is not debatable. Whenever any committee reports any resolution, if it carries a few dollars for a stenographer, it can not be debated by the Senate. Nothing can be done with it. It can not even go over and be printed.

Mr. PITTMAN. Mr. President, from the Senator's position, I do not understand that to be a fact. I agree with him that he may move to recommit the resolution to the same committee. That would be debatable. I agree with him that he could move to refer it, now that it is back, to the Judiciary Committee; but if it comes back to the Chair without any motion whatever to refer it to any committee, then the statute comes into force and effect and automatically refers it to the Committee to Audit and Control the Contingent Expenses of the Senate.

Mr. LODGE. The Senator perhaps was not here. The Senator from Ohio [Mr. POMERENE] submitted this report and made the usual and customary motion that it be referred to the Committee to Audit and Control the Contingent Expenses of the Senate, and I asked that it lie over under the rule and be printed. The Chair then suggested that it would have to go automatically and at once to the Committee to Audit and Control the Contingent Expenses of the Senate, and the Senator from Ohio withdrew his motion.

Now, it is perfectly easy for me to make half a dozen motions which are in order at this time; but the fact is that I was really so completely surprised that that general rule about reports should be suddenly changed that I did not make any of those motions. I can easily move to recommit it, which is a debatable motion, or I can move to refer it to another committee, which is a debatable motion; and it seems to me, with all those possibilities of motions, that that very fact shows that it is a debatable question.

Mr. PITTMAN. Mr. President, I do not think there is any doubt but that it is debatable. It is being debated. The question that occurs to me, however, is this:

The Chair is not confronted with a great many suggestions which the Senator from Massachusetts has made. The Senator has suggested that he might make a motion to recommit or he might make a dozen other motions. The Chair would probably hold those motions in order, and the debate would then be logical. He has not seen fit to make the motion. It is immaterial whether the Senator from Ohio moved to refer it or not; that motion does not lie on the table now.

Mr. LODGE. No; it was withdrawn.

Mr. PITTMAN. It has been withdrawn. The Chair is confronted simply with this state of facts:

A resolution calling for money lies on the desk. What shall the Chair do with it? The only question submitted to the Chair was, Should he let it go to the calendar or follow the mandate of the statute and let it go to the committee? The Chair followed the mandate of the statute, because there was no other motion before the Chair.

Mr. LODGE. It is still open to me to make a motion to recommit, of course. A motion is in order to recommit or to refer to another committee.

Mr. PITTMAN. The matter now stands on an appeal from that decision of the Chair.

Mr. LODGE. I do not know—however, the Chair may rule all those motions out of order.

Mr. PITTMAN. The Senator can find out very easily.

Mr. THOMAS. You can not do it unless you make the motion.

Mr. LODGE. I am perfectly willing to withdraw the appeal and make the motion to recommit.

Mr. PITTMAN. The Chair undoubtedly, in the opinion of the Senator from Massachusetts, is correct in his ruling on this question, or the appeal would undoubtedly go to a vote, and very probably we could try the other matter.

Mr. LODGE. I am perfectly willing to go to a vote, or to dispose of it in any way; but that does not deprive me of the right to make the motion to recommit. It seems to me, however, that the ruling necessarily carries with it that no resolution carrying a charge on the contingent fund can be debated, nor is it subject to any debatable motion. It seems to me that is an inevitable conclusion, and that is the reason why I have

taken the liberty of discussing it, because it opens such a wide field.

Mr. PITTMAN. What would the Chair do if there were no motion made?

Mr. LODGE. I assume, of course, that the matter would lie over in the usual way and be taken up to-morrow. The report would go over one day and come up to-morrow for debate.

Mr. PITTMAN. But if the statute says that it shall be referred, the Chair can do nothing else.

Mr. LODGE. This is a Senate resolution. It is not a bill or a joint resolution. It is a Senate resolution simply.

Mr. PITTMAN. And to that the statute applies.

Mr. LODGE. It applies to anything. The statute applies to everything carrying a charge on the Treasury, whether it is a joint resolution or a bill or anything else.

Mr. PITTMAN. And in the absence of a motion before the Chair, the Chair has but one thing to follow, and that is the statute.

Mr. LODGE. If the proposition were to make the appropriation now, undoubtedly.

The VICE PRESIDENT. The question is, Shall the ruling of the Chair stand as the judgment of the Senate? [Putting the question.] The Chair is in doubt.

Mr. PITTMAN. I ask for the yeas and nays.

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. CURTIS (when his name was called). I have a general pair with the junior Senator from Georgia [Mr. HARDWICK]. In his absence I withhold my vote.

Mr. KELLOGG (when his name was called). I have a general pair with the Senator from North Carolina [Mr. SIMMONS]. I therefore withhold my vote. If at liberty to vote, I should vote "nay."

Mr. MOSES (when his name was called). I have a general pair with the junior Senator from Kentucky [Mr. MARTIN]. In his absence I withhold my vote.

Mr. POLLOCK (when the name of Mr. SMITH of South Carolina was called). I desire to announce the absence of my colleague the senior Senator from South Carolina [Mr. SMITH], on account of illness. I will let this announcement stand for the day.

Mr. STERLING (when his name was called). I have a general pair with the senior Senator from South Carolina [Mr. SMITH], which I transfer to the Senator from New Jersey [Mr. BAIRD] and vote. I vote "nay."

Mr. THOMAS (when his name was called). I have a general pair with the senior Senator from North Dakota [Mr. McCUMBER], which I transfer to the Senator from California [Mr. PHELAN] and vote "yea."

Mr. WATSON (when his name was called). I have a general pair with the junior Senator from Delaware [Mr. WOLCOTT], which I transfer to the senior Senator from New York [Mr. WADSWORTH] and vote "nay."

The roll call was concluded.

Mr. BECKHAM. I have a general pair with the Senator from West Virginia [Mr. SUTHERLAND], which I transfer to the Senator from Illinois [Mr. LEWIS] and I vote "yea."

Mr. MYERS. Has the Senator from Connecticut [Mr. McLEAN] voted?

The VICE PRESIDENT. He has not.

Mr. MYERS. I have a pair with the Senator from Connecticut [Mr. McLEAN]. I am unable to secure a transfer and therefore withhold my vote. If at liberty to vote, I would vote "yea."

Mr. REED (after having voted in the affirmative). I transfer my pair with the Senator from Michigan [Mr. SMITH] to the Senator from Oklahoma [Mr. GORE] and allow my vote to stand.

Mr. CUMMINS. Has the Senator from Illinois [Mr. LEWIS] voted?

The VICE PRESIDENT. He has not.

Mr. CUMMINS. I have a pair with that Senator and therefore I withhold my vote.

Mr. BECKHAM (after having voted in the affirmative). I transferred my pair with the Senator from West Virginia [Mr. SUTHERLAND] to the Senator from Illinois [Mr. LEWIS]. As the Senator from Illinois [Mr. LEWIS] is paired with the Senator from Iowa, as just announced, and the Senator from West Virginia [Mr. SUTHERLAND] is absent, I withdraw my vote.

Mr. COLT (after having voted in the negative). Has the senior Senator from Delaware [Mr. SAULSBURY] voted?

The VICE PRESIDENT. He has not.

Mr. COLT. In his absence, I withdraw my vote.

Mr. CALDER. Has the Senator from Rhode Island [Mr. GERRY] voted?

The VICE PRESIDENT. He has not.

Mr. CALDER. I have a general pair with that Senator and withhold my vote.

Mr. GORE. As my vote has been taken care of by a transfer, I shall not vote.

Mr. REED. I made the transfer, but, in view of the Senator's appearance and his clear right to vote in his own behalf, I will withdraw my vote and permit the Senator from Oklahoma to be recorded.

Mr. GORE. As it will not change the result, I will let the transfer stand.

Mr. REED. Very well, then, let it stand.

Mr. SHEPPARD. I wish to announce that the senior Senator from Delaware [Mr. SAULSBURY] is detained on important public business.

Mr. MARTIN of Virginia. I desire to announce that the senior Senator from Maryland [Mr. SMITH] is detained by illness.

Mr. PITTMAN. I wish to announce that the Senator from North Carolina [Mr. SIMMONS] and the Senator from Illinois [Mr. LEWIS] are detained on official business.

Mr. KIRBY. I desire to announce that the Senator from Arkansas [Mr. ROBINSON] is detained by illness.

Mr. CURTIS. I have been requested to announce the following pairs:

The Senator from Connecticut [Mr. BRANDEGEE] with the Senator from Tennessee [Mr. SHIELDS];

The Senator from Vermont [Mr. DILLINGHAM] with the Senator from Maryland [Mr. SMITH];

The Senator from New Mexico [Mr. FALL] with the Senator from Wyoming [Mr. KENDRICK]; and

The Senator from West Virginia [Mr. GOFF] with the Senator from Oklahoma [Mr. OWEN].

The result was announced—yeas 36, nays 26, as follows:

AYES—36.

Ashurst	Hollis	Overman	Smith, Ga.
Bankhead	Johnson, S. Dak.	Pittman	Swanson
Chamberlain	Jones, N. Mex.	Pollock	Thomas
Culberson	King	Pomerene	Thompson
Fletcher	Kirby	Ransdell	Trammell
Gay	McKellar	Reed	Underwood
Hardwick	Martin, Ky.	Shaftroth	Vardaman
Henderson	Martin, Va.	Sheppard	Walsh
Hitchcock	Nugent	Smith, Ariz.	Williams

NAYS—26.

Curtis	Johnson, Cal.	New	Sterling
Fernald	Jones, Wash.	Page	Townsend
France	Knox	Penrose	Warren
Frelinghuysen	Lodge	Polindexer	Watson
Gronna	McNary	Sherman	Weeks
Hale	Moses	Smoot	
Harding	Nelson	Spencer	

NOT VOTING—34.

Baird	Gerry	McCumber	Simmons
Beckham	Goff	McLean	Smith, Md.
Borah	Gore	Myers	Smith, Mich.
Brandeggee	Kellogg	Norris	Smith, S. C.
Calder	Kendrick	Owen	Sutherland
Colt	Kenyon	Phelan	Wadsworth
Cummins	La Follette	Robinson	Wolcott
Dillingham	Lenroot	Saulsbury	
Fall	Lewis	Shields	

So the Senate decided that the decision of the Chair should stand as the judgment of the Senate.

COMMITTEE SERVICE.

Mr. MARTIN of Virginia. I have a communication from the senior Senator from New Hampshire [Mr. HOLLIS], who asks to be relieved from further service upon the Committee on the District of Columbia. I move that that request be granted and that the Senator from Texas [Mr. SHEPPARD] be assigned to the committee to fill the vacancy.

The VICE PRESIDENT. Without objection, it is so ordered.

The order was reduced to writing and agreed to, as follows:

Ordered, That the Senator from New Hampshire, Mr. HOLLIS, be relieved from further service as a member of the Committee on the District of Columbia and that the Senator from Texas, Mr. SHEPPARD, be assigned as a member thereof.

WORK ON RECLAMATION PROJECTS.

Mr. JONES of Washington. Mr. President, during the war practically all the work on reclamation projects that was under way at the beginning of the war was stopped. The war, for practical purposes, is over. All the plans and specifications for this work are prepared, and if money were available work could be commenced at once and employment could be furnished. It seems to me it would be one of the most practical methods of furnishing a reservoir for labor and employment if money could be made available for carrying of these projects. For that purpose I propose an amendment, which I intend to offer to the sundry civil appropriation bill, making available \$50,000,000. I ask that it be referred to the Committee on Irrigation and Reclamation of Arid Lands for its report.

The VICE PRESIDENT. The amendment will be so referred.

RAILROAD CONTROL.

Mr. CUMMINS. Mr. President, I ask the indulgence of the Senate for a few moments. I am about to introduce a bill which is of such tremendous and pressing importance that while it is under consideration by the committee I want Senators to give it their individual thought, so that we may be prepared, if a report of the committee is secured, to act upon it some time during the present session of Congress.

The President took possession of the railroads of the United States on the 29th day of December, 1917. The possession was assumed under an act of Congress passed in August, I think, in 1916. On the 21st day of March, 1918, a bill was passed by Congress and approved by the President providing for the operation of the railroad systems of the United States and for the compensation which should be paid to their several owners. Section 14 of that act provides:

That the Federal control of railroads and transportation systems herein and heretofore provided for shall continue for and during the period of the war and for a reasonable time thereafter, which shall not exceed one year and nine months next following the date of the proclamation by the President of the exchange of ratifications of the treaty of peace: *Provided, however*, That the President may, prior to July 1, 1918, relinquish control of all or any part of any railroad or system of transportation, further Federal control of which the President shall deem not needful or desirable; and the President may at any time during the period of Federal control agree with the owners thereof to relinquish all or any part of any railroad or system of transportation. The President may relinquish all railroads and systems of transportation under Federal control at any time he shall deem such action needful or desirable. No right to compensation shall accrue to such owners from and after the date of relinquishment for the property so relinquished.

In the latter part of 1918 the Director General of Railroads, Mr. Secretary McAdoo, recommended that the period of control be extended to five years after the declaration of peace, and that recommendation is now under consideration by the Committee on Interstate Commerce of the Senate, and I think it is under consideration by the Committee on Interstate and Foreign Commerce of the House.

When the Director General appeared before the committee of the Senate he stated in a rather clear and understandable way that if Congress did not extend the period of Federal control according to his recommendation—that is, for five years after the declaration of peace—it was probable, at least, that the railroad systems would be returned to their owners at the close of this session. I do not mean to say that he declared this intention specifically.

Mr. POMERENE. Mr. President—

Mr. CUMMINS. I only say that no other fair interpretation could be put upon his statement before the committee.

The VICE PRESIDENT. Does the Senator from Iowa yield to the Senator from Ohio?

Mr. CUMMINS. I yield.

Mr. POMERENE. I do not have his language before me, but my understanding was that he simply expressed his personal view as to what ought to be done, not that it would be done.

Mr. CUMMINS. The Senator is quite correct. The Director General did not attempt to commit the President to the view which he expressed, but inasmuch as the successor of the Director General, Mr. Hines, has publicly stated that his policies will be the same as the policies of Mr. McAdoo, we may assume that it is the purpose of the Director General of Railroads to return these properties to their owners at the end, or very soon after the end, of this session if Congress does not extend the period for five years.

It is my opinion that Congress will not extend the period for five years. It is the overwhelming weight of opinion of bankers and railroad men and of all other thoughtful persons who have communicated their views in any way that to return these properties to their owners without further legislation, without some provision to care for their necessities and for the necessities of the people as well, would be a universal disaster. It is the judgment of those who understand this subject best that if these roads are returned to their owners before Congress shall legislate in some wise way upon the subject, more than one-third of all the mileage of the United States will be in the hands of receivers within 60 days after the return takes place.

I think we all believe—the members of the committee I am speaking of now—that we can propose to Congress a plan and a permanent policy for the readjustment or reorganization of the relation between the railroads and the Government within a few months, and it is our belief that Congress will be able within the year to agree upon some enduring general permanent system for the control of these highways of commerce.

Mr. THOMAS. Mr. President—

Mr. CUMMINS. I yield.

Mr. THOMAS. I suppose the Senator's statement is upon the assumption that there will be a special session?

Mr. CUMMINS. Mr. President, it is not altogether on that assumption, although I believe there ought to be a special session; I believe that there must be a special session; but even if there is no special or extra session, if the Committees on Interstate Commerce are permitted to do their work during the interim and be ready to report at the next regular session, we can within a year compose all the differences on this subject and present to the people a permanent policy in that regard.

In view of these circumstances—and they are very grave; their seriousness can not be overestimated or exaggerated—I introduce a bill which I shall read, so that Senators can see in the Record what it is. This is a substitute for section 14, which I read in the beginning of my observations:

Be it enacted, etc., That section 14 of the above act is hereby amended to read as follows:

"Sec. 14. That the Federal control of railroads and transportation systems herein and heretofore provided for shall continue for and during the period of the war and for one year and nine months next following the date of the proclamation by the President of the exchange of ratifications of the treaty of peace, unless Congress otherwise directs. No right to compensation shall accrue to such owners from and after the date of the relinquishment of the property so relinquished, whether returned at the end of said period or sooner by direction of Congress."

The effect of this measure, if passed, gives the country 21 months after the war to adopt such legislation as it desires. That is the limit as it is under the present law for Government possession, but in the meantime it is to be hoped that Congress will have acted and that some new, comprehensive, and, I think, equitable plan can be adopted which will be accepted as a permanent policy in this country.

I have made these remarks because if we do not pass this bill, or something in the nature of this bill, and if the President shall be guided by the advice of his Director General and return these properties in their present condition and under the existing circumstances to their owners, the United States will see a cataclysm in finance as well as in railroad operation such as it has never witnessed before.

I earnestly hope that the Members of the Senate will give such thought to this subject as will enable them to act promptly in whatever way their consciences and judgment direct upon any report which the Committee on Interstate Commerce may present.

I introduce the bill of which I have been speaking and ask that it be referred to the Committee on Interstate Commerce.

The bill (S. 5432) to amend an act entitled "An act to provide for the operation of transportation systems while under Federal control, for the just compensation of their owners, and for other purposes," approved March 21, 1918, was read twice by its title and referred to the Committee on Interstate Commerce.

SENATOR FROM MICHIGAN.

Mr. TOWNSEND. Mr. President, I present for reading and reference to the Committee on Privileges and Elections the following communication.

The VICE PRESIDENT. Does the Senator ask that it be read?

Mr. TOWNSEND. I ask that it be read and referred to the Committee on Privileges and Elections.

The VICE PRESIDENT. Is there objection?

There being no objection, the communication was read and referred to the Committee on Privileges and Elections, as follows:

JANUARY 23, 1919.

To the honorable UNITED STATES SENATE

COMMITTEE ON PRIVILEGES AND ELECTIONS:

Truman H. Newberry, of Grosse Point Farms, Wayne County, Mich., respectfully represents unto your honorable body as follows:

He is advised that you either have reported or are about to report to the Senate for favorable action Senate resolution 415, providing in substance for an investigation into and recount of the recent senatorial election in the State of Michigan, and he submits the following for the consideration of your honorable body:

1. This Senate has no jurisdiction to take up the matters involved in said resolution.

(a) The constitutional provision that the Senate shall be the sole judge of the qualification and election of its own members does not refer to this Senate, but to the Senate to which a man has been elected.

(b) No certificate of election or similar credentials, the outgrowth of the recent Michigan senatorial election, is now before this body, nor under existing conditions is it at present intended to present such credentials to this Senate.

Should your honorable body disagree with this jurisdictional position, then, before the ballots and the election history of 2,100 voting precincts scattered over 83 counties in the State of Michigan shall be examined, it is respectfully submitted that some facts should be proven preliminary to the adoption of such a program. If permission were given for a preliminary hearing attention will be called to the following facts and circumstances:

2. The petition upon which this resolution has been based, it will be noticed, is entirely a petition upon information and belief; in other

words, it is entirely hearsay, and if the allegations in the petition could be corroborated they surely would be for the following reasons:

(a) Since the election a great many agents, attorneys, and detectives on behalf of Mr. Henry Ford have traveled up and down the State of Michigan collecting evidence. They have represented themselves to be members of the American Protective League, the representatives of the Department of Justice, and the representatives of Truman H. Newberry. They have examined poll books and poll lists in nearly every county. They have had access to the election returns in nearly every county. In some cases it is said they have had access to the ballots themselves. As an illustration of their methods the situation in the city of Grand Rapids is an example in point. The United States district attorney for the western district of Michigan is Myron H. Walker, a Democratic appointee. Mr. Walker, with no grand jury proceedings pending and no commissioner conducting an examination, summoned a large number of witnesses formally and informally to his office and took their statements frequently before a stenographer representing the Ford interests. He at times would issue a note in his own handwriting directing persons to come to his office. At other times he would use a blank form used by the Department of Justice or by the American Protective League to get people in his office, and frequently these illegal and improper summonses he caused would be served by volunteer women Red Cross workers, driving Red Cross ambulances in the city of Grand Rapids, who, of course, had no consciousness of the political uses to which their patriotic services were being put. If methods of this description produced proof, this proof and not mere hearsay should be laid before the Senate before the elaborate program now contemplated is undertaken.

(b) All the ballots, poll books, and election history in the State of Michigan is now in a state of perpetual preservation under final injunctions issued by the two United States courts in the State of Michigan, by virtue of a stipulation entered into between counsel for Henry Ford and Truman H. Newberry, so that there is now no proof of this description which will not be available for the new Senate, the proper body, if it determines there are facts which warrant an investigation or a recount.

(c) In connection with the requested recount attention should be called to the following facts:

(a) The campaign put up in Michigan on behalf of Mr. Henry Ford can be shown to have been generally regarded as the most elaborate, expensive, and pretentious in the history of the State.

(b) In every county an elaborate newspaper advertising campaign was carried on at an apparently tremendous expense.

(c) In every county literature was freely distributed through the mails by messenger boys and even to handbills.

(d) A most elaborate and pretentious billboard campaign was conducted throughout the State of Michigan, the expense of which must have run into very large figures.

(e) A very expensive, elaborate, and pretentious booklet was prepared and distributed to a number estimated at about a half a million. Testimony from all over the State can be produced indicating that this pamphlet was mailed to every voter in the State of Michigan, and in some cases to the same voter on two, three, or four occasions. It is believed it can be shown that the cost of printing this pamphlet alone must have been \$75,000, that postage on this one piece of literature must have been from \$10,000 to \$15,000, and the cost of addressing and distributing would bring this one item alone, so far as expense is concerned, into extremely large figures. There can be no doubt of its political effect.

(f) Two occasions, at least, can be shown where Democratic postmasters had mail carriers distributing Ford literature the Sunday before election and withholding other mail from distribution until the Ford political mail a day or two before election had been distributed.

(g) It will be further shown that outside of Wayne County, in which is located the city of Detroit, the majority of Truman H. Newberry over Henry Ford was approximately 45,000. The normal Republican majority (including the city of Detroit) is approximately 30,000, yet Mr. Ford carried Wayne County by over 35,000 majority. In bringing about this peculiar, remarkable political upset it will be shown that Ford workers in great numbers were around nearly every booth with literature, cards, and banners; automobiles carrying his workers around labeled with appropriate banners were never so thick. Out of approximately 300 voting precincts in the city of Detroit approximately 40 are precincts notoriously known as politically controlled. It will be shown that in each and everyone of the precincts of this description Mr. Ford carried them by a majority running as high as 2, 3, and 4 to 1, although Republican candidates had like majorities in a great many of such precincts.

(h) It will be shown in some precincts that the Ford workers insisted on voting men who were not registered; in some cases men whose citizenship was doubted.

(i) In addition to this political organization so built up it will be shown that there is a Ford agent for the sale of Ford cars in nearly every hamlet in the State of Michigan. These Ford agents were in nearly all cases made the political headquarters of the Ford campaign, the place from which workers were furnished cars and literature, thus affording a semivolunteer organization unparalleled.

It is because of facts and circumstances as above enumerated that it is believed it can be demonstrated that the major portion of the political activity and expenditures of money on the election was done on behalf of Mr. Ford, who some time after the election in an authorized published statement said in effect the election was free from any irregularities.

TRUMAN H. NEWBERRY,
By J. O. MURFIN,
His Attorney at Law and in Fact.

VALIDATION OF WAR CONTRACTS.

Mr. CHAMBERLAIN. Mr. President, has the morning business been concluded?

The PRESIDING OFFICER (Mr. HOLLIS in the chair). The morning business has been closed. The Calendar, under Rule VIII, is in order.

Mr. CHAMBERLAIN. I move that the Senate proceed to the consideration of House bill 13274, the unfinished business.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 13274) to provide relief where formal contracts have not been made in the manner required by law, which had been reported from the Committee on Military Affairs with an amendment.

Mr. CHAMBERLAIN. Mr. President, this measure is one of very great importance to the country, involving as it does the validation and payment of contracts amounting to \$1,600,000,000, and possibly \$2,000,000,000. In view of its importance, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum is suggested. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Beckham	Hitchcock	McNary	Spencer
Borah	Hollis	Martin, Va.	Sterling
Calder	Johnson, Cal.	New	Swanson
Chamberlain	Johnson, S. Dak.	Nugent	Thomas
Colt	Jones, Wash.	Overman	Townsend
Curtis	Kellogg	Penrose	Trammell
Fletcher	Kenyon	Pittman	Walsh
Frellinghuysen	King	Pomerene	Warren
Gay	Knox	Shafroth	Watson
Gronna	La Follette	Sheppard	Weeks
Hardwick	Lenroot	Smith, Ga.	Williams
Henderson	McKellar	Smoot	

The PRESIDING OFFICER. Forty-seven Senators have answered to their names. There is not a quorum present. The Secretary will call the roll of absentees.

The Secretary called the names of the absent Senators, and Mr. BANKHEAD, Mr. CUMMINS, Mr. HALE, Mr. HARDING, Mr. KIRBY, Mr. LODGE, Mr. MARTIN of Kentucky, Mr. MOSES, Mr. NELSON, Mr. POLLOCK, Mr. RANDELL, Mr. SHERMAN, and Mr. SMITH of Arizona answered to their names when called.

Mr. SIMMONS entered the Chamber and answered to his name.

The PRESIDING OFFICER. Sixty-one Senators have answered to their names. There is a quorum present.

Mr. CHAMBERLAIN. Mr. President, as I stated awhile ago, this is a measure of very great importance, and I do hope that Senators will undertake to reach a proper solution of the question, which involves something like \$1,600,000,000, and possibly more. It grows out of section 3744 of the Revised Statutes, or the failure of the departments to observe the provisions of that statute in the making of so-called war contracts. In order to get the matter before the Senate in proper shape I am going to ask to have the Secretary read into the RECORD section 3744 of the Revised Statutes.

The PRESIDING OFFICER. The Secretary will read as requested.

The Secretary read as follows:

It shall be the duty of the Secretary of War, of the Secretary of the Navy, and of the Secretary of the Interior to cause and require every contract made by them severally on behalf of the Government or by their officers under them appointed to make such contracts, to be reduced to writing and signed by the contracting parties with their names at the end thereof, a copy of which shall be filed by the officer making and signing the contract in the Returns Office of the Department of the Interior as soon after the contract is made as possible and within 30 days, together with all bids, offers, and proposals to him made by persons to obtain the same, and with a copy of any advertisement he may have published inviting bids, offers, or proposals for the same. All the copies and paper in relation to each contract shall be attached together by a ribbon and sealed and marked by numbers in regular order according to the number of papers composing the whole return.

Mr. CHAMBERLAIN. There are certain other sections following the one just read to which I deem it unnecessary to call particular attention at this time. It so happened that during the progress of the war many contracts were entered into where the formalities of the section just read were entirely complied with; but as the emergencies grew and demand for many of the supplies which were necessary for the successful prosecution of the war became more insistent the War Department and its officers and agents began to disregard the provision of the statute. It happened that many supplies, munitions, and in fact everything needed were ordered by letter, some by telephone and telegraph, and I believe in some instances by appeals made on the ground by representatives of the Government to men who were engaged in the manufacture of munitions and other supplies, appealing to their patriotism to go ahead and manufacture the things that were needed by the Government. In nearly every case, and I think possibly in every case where this appeal was made to men who were familiar with the requirements of the statute, it was complied with, and men of large means, and frequently men of small means, individuals, firms, and corporations proceeded to manufacture without having any form of contract executed with the Government, relying upon the justice and integrity of purpose of the Government officials to see to it that they were paid later on.

Mr. POMERENE. Mr. President—

The PRESIDING OFFICER. Does the Senator from Oregon yield to the Senator from Ohio?

Mr. CHAMBERLAIN. I yield.

Mr. POMERENE. The Senator from Oregon has referred to the informality of many of the contracts. If he will permit me,

I should like to submit another instance that was called to my attention some time ago, in which a representative of the Government waited upon a manufacturer, found that his plant was especially well equipped for a certain product, and this manufacturer did not then care to take up that line of manufacture. The Government official said to him if he did not do it they would immediately commandeer his plant. Of course, the manufacturer only desired to do his full duty toward his country, and he took up this line of work, and now he is met with the statement that his contract was illegal.

Mr. CHAMBERLAIN. I am glad to have the Senator call attention to that, but it is only one illustration of a great many. In any event the War Department, I think, was undertaking to reach an adjustment of invalid or in many instances irregular contracts when the Comptroller of the Treasury, Mr. Warwick, rendered a decision which stopped the negotiations for the adjustment of contracts, or practically stopped them, because in effect he held that they could not be paid even if an ascertainment was had as to the amount due from the Government to the contractor.

This has resulted, Mr. President, in great confusion. There was probably no question about the legality of the ruling of Mr. Warwick. It not only resulted in confusion in this country but in France and Great Britain, where there were many contracts being performed by these Governments or by their citizens. In many cases consent to their cancellation was agreed to by the authorities there. It was impossible for our Government to do anything toward the adjustment of these contracts, because there was no way to pay them after the adjustments had been reached. The result has been, as the testimony shows in the hearings before our committee, that in some instances the French Government and individuals in France and in Great Britain are proceeding to carry out the terms of the irregular contracts which they had, which consisted merely of an order and an acceptance upon the part of the manufacturer to perform their part of the contract, and the whole proceeding of settlement has been stopped.

Mr. President, without going into details I call attention to the fact that after the decision of the comptroller the War Industries Board had prepared and sent up to be introduced in Congress a bill which would validate these irregular contracts. That bill was introduced on the 5th day of December, 1918, by myself at the request of the War Department. That bill was referred to the Military Affairs Committee and was taken up for consideration, with the result that a subsequent bill introduced in the Senate under date of January 2, 1919, by the Senator from Nebraska [Mr. HITCHCOCK] and referred to the committee, was reported out by the Committee on Military Affairs, as probably the best bill on the subject up to that time.

Later on the committee reconsidered its action with reference to this question. They heard further evidence about the whole situation, and subsequently, on the 9th day of January, authorized the chairman of the committee to report out a substitute for any bills that might be pending, or, rather, as an amendment to be taken up in whatever way the parliamentary situation permitted.

Still later, Mr. President, the committee, without further action than as above stated upon any of these bills, had referred to it House bill 13274. It is now Order of Business 597 on the Senate Calendar. It was known as the Dent bill, and had for its purpose the same object the bills which I have just been mentioning. Then the Committee on Military Affairs of the Senate reported out as a substitute for the so-called Dent bill another bill which embodied what is conceived to be the best features of the bills I have just been discussing. That bill was reported to the Senate on the 13th day of January, striking out all after the enacting clause and substituting therefor the bill which the Senate Military Affairs Committee agreed upon. That is the bill which is now before the Senate.

I do not know that there is more I desire to say with reference to the matter now, but I suppose it will be discussed quite at length, and I may have something to say about it later.

Mr. LENROOT. I should like to ask the Senator from Oregon a question in reference to the first portion of the bill validating contracts that have been defectively executed or not executed in compliance with the law. I want to ask the Senator whether in his opinion this would make a valid contract so that the contractor would be able to claim and receive unearned profits? In other words, here is a contract for, we will say, \$10,000,000 worth of munitions. Only \$1,000,000 worth of it has been received. The Government could not be held to pay the profit upon the \$9,000,000 which it had not received in munitions? I ask the Senator whether under this language it would not so validate that procurement order, for it may have been only in the form of a procurement order, that the contractor would re-

ceive his entire profit upon the \$10,000,000 worth of munitions, although he had not earned a profit except upon \$1,000,000 worth?

Mr. CHAMBERLAIN. Does the Senator ask whether the bill is drawn in such a way as to permit that?

Mr. LENROOT. Yes.

Mr. CHAMBERLAIN. The testimony before the committee shows that it was not the intention to have the profits the Senator speaks of paid.

Mr. LENROOT. What is the Senator's opinion as to the bill properly guarding the Government against that situation?

Mr. CHAMBERLAIN. I think the bill is broad enough to protect the Government. It seems to me there is a clause in it that does do that very thing.

Mr. McKELLAR. If the Senator will permit me, I call his attention to the language on page 5 of the bill:

The Secretary of War is authorized and directed, on behalf of the Government, to enter into such contract with such individual, firm, company, corporation, or foreign Government as will, under all the circumstances, fairly and equitably compensate him or it for the expenditures made, obligations incurred, equipment, materials, or supplies furnished or acquired, or services rendered, as aforesaid.

It excludes any pay for anticipated or speculative profits.

Mr. LENROOT. That may be true, but that only relates to the cases described in that paragraph where no contract had been entered into. The preceding paragraph, concerning which I now direct my inquiry, is where the contract has been made but not fully executed in compliance with the law.

Mr. McKELLAR. I will say to the Senator in reference to that, that the first section applies to those contracts where they have been signed, but not technically properly signed.

Mr. LENROOT. I understand that.

Mr. McKELLAR. When we give them by this act a proper signing the rights of the party are dependent upon those written contracts which the contractor has already signed, and, of course, the Government is bound by that.

Mr. LENROOT. That would be true if the first paragraph was limited to contracts of that character; but the very first paragraph also validates all procurement orders that have been accepted.

Mr. McKELLAR. No; that is the second paragraph.

Mr. LENROOT. No; the first. The language is:

When such agreement anticipated procurement order, and such agreement was reduced to the form of a contract or accepted procurement order and executed or signed on behalf of the Government.

I understand all the contracts do provide for cancellation.

Mr. McKELLAR. Those procurement orders are in writing also, and the Government is bound by the procurement order in the same way as in a contract.

Mr. LENROOT. Am I correct in my understanding that where the contract was actually made it has in all cases provided for cancellation?

Mr. McKELLAR. It has; that is my understanding.

I want to say to the Senator that there are thousands of these contracts improperly signed, and they have changed the verbiage of the contracts from time to time. I have never seen all of them, but I am informed that they all provide—

Mr. LENROOT. I mean that that is the practice.

Mr. McKELLAR. That is the case, although they provide for cancellation.

Mr. WEEKS. I remember that the matter was brought up in the committee and that question was asked, and much to my surprise I think the opinion was furnished the committee that all contracts did not contain the cancellation clause.

Mr. McKELLAR. That is correct as to the first contract, and that was the testimony before the committee, as the Senator from Massachusetts has described; but later on they had a form of contract, which was stated to be the standard form of contract, in which cancellation was provided. So, as I said, even the written contract is involved in a good deal of doubt.

Mr. LENROOT. Then, I take it, it is admitted that under the language in the first paragraph, as the bill stands, it will bind the Government to pay the full price or the profits that would have been realized upon the canceled portions of the contract.

Mr. McKELLAR. No; I do not think that would be the case at all. I will state what the bill does. The first paragraph is to bind the Government to precisely the same written contract, called either a contract or a procurement order, that its agents signed, but signed improperly.

Mr. LENROOT. I agree to that; but does the Senator think where such a contract has been made by anyone without any provision for cancellation the Government should be held to a validation of that contract, compelling the Government to pay unearned profits?

Mr. McKELLAR. I am very frank to say to the Senator I do not, and if he has an amendment to offer making it certain that no prospective or speculative profits are to be considered, I shall take great pleasure in making it clear, so far as my vote can do so. I thought there was a specific statement in this bill on that subject. There was one in the bill that our subcommittee prepared.

Mr. LENROOT. The Senator then would not object to a general provision being placed in the bill that no unearned profits shall be awarded in the adjustment of any of these contracts?

Mr. McKELLAR. That would depend on the kind of profits, but no unearned profits, surely.

Mr. FLETCHER. May I call the Senator's attention to the authority given the Secretary of War in lines 7 and 8, and so on, upon page 5? The authority is "to enter into such contract with such individual, firm, company, corporation, * * * as will, under all the circumstances, fairly and equitably compensate him or it for the expenditures made, obligations incurred."

Mr. LENROOT. If the Senator will examine a little further, he will see that that applies only to one class of cases. It is the first paragraph I am now speaking of.

Mr. FLETCHER. Oh, I see.

Mr. LENROOT. That is not covered by that at all. That validates the contracts as they stand, although defectively executed.

Mr. FLETCHER. All the Government is there authorized to do is to waive noncompliance.

Mr. LENROOT. Certainly. That makes the obligation on the Government whatever it might be.

Mr. FLETCHER. It does not obligate the Government to make a contract that requires the Government to go on and reverse its entire policy.

Mr. LENROOT. If we waive the defective execution of the contract, we validate that contract.

Mr. McKELLAR. If the Senator will permit me, I will say that, of course, it was the argument of those contractors who appeared before the committee that the Government having made a written contract with them, it should be bound by it, even though it was defectively executed by the Government's own agent. The Senator must see that there is weight in that argument. On the other hand, it was the contractor's duty, as it seems to me, to see that he had a contract that was properly executed by the Government agent, as well as the Government's duty to see to that same thing. Under the circumstances, it seems to me that if we give this particular kind of a written contract a higher and better position than the classes of contracts in the second paragraph, we are doing an injustice to those who did not have written contracts. For that reason I am willing to support an amendment which the Senator or some one may offer on that subject.

Mr. FLETCHER. There is a provision also that the Secretary of War shall find whether or not it is consistent with the public interest.

Mr. LENROOT. I do not think that that would go to the question of unearned profits.

Mr. WEEKS. May I suggest to the Senator from Wisconsin that these men have no valid contracts, and the purpose is to validate a contract so that a claim may be made. They have no case in court as the matter now stands. Being given a case in court, then the extent of the payment to them is a matter of determination to be reached through the machinery which has been provided in the bill.

Mr. LENROOT. But if the contract is validated to the full extent, then they have a legal claim.

Mr. WEEKS. Not unless they have a completed claim. Of course, if they had completed only one-tenth of the contract there would be no basis for a claim for the profits on the other nine-tenths.

Mr. LENROOT. I beg the Senator's pardon, if the Government canceled it, through no fault of their own, certainly the general rule of law would be that they would be entitled to the profits they would have received.

Mr. WEEKS. The Government in ordinary cases always retains the power of cancellation. It had failed to do so in some cases until the matter was brought to the attention of the department by the Committee on Appropriations. After that all contracts did contain it.

Mr. LENROOT. But the objection I am making to the bill is that if it applied to contracts alone I do not think any great danger would exist; but it validates procurement orders that have been accepted, which, of course, do not contain the cancellation clause.

Mr. WEEKS. I do not think that anyone would object to protecting the Government in the payment of unearned earnings.

Mr. LENROOT. I appreciate that.

Mr. WEEKS. I think it is protected, but, so far as I am concerned, I would not object to an amendment of that kind.

Mr. SMITH of Arizona. Mr. President, I should like to state that I just received a telegram this morning of protest from long-staple cotton raisers in Arizona and southern California in regard to the importation now of many thousands of bales of long-staple cotton. These men have been prohibited, I understand, by rulings of the Government from the sale of their cotton at all. They have now on hand two years of cotton that was selling at 70 cents or over in the market. That sale has been prohibited by the action of the Government. The War Trade Board is now permitting the importation of tons and tons of Egyptian long-staple cotton, bringing the price down beyond the power of raising cotton on the lands of which I speak. It seems to me if there is any equity in any of this measure, and I have no doubt there is great equity in the purposes of the bill, these people should not be neglected.

I do not know how to get at it except by a bill preventing the importation of long-staple cotton until the cotton now on hand that the Government prevented the sale of when the raiser could get his price for it has been disposed of.

With the many ramifications that the whole question contains, I know if I introduce a bill to stop the importation of long-staple cotton for this year, which would permit the sale of this cotton, I would find very great difficulty in getting that bill through both Houses of Congress between now and the 4th day of next March. I see from the humor the suggestion causes the very impossibility of the suggestion even; but I wanted to know if there are any cases in this bill touching on that peculiar class of equity outside of any contractual relations; and if so, I should like to have an amendment put in somewhere to protect these people in their cotton, which has been absolutely confiscated as far as their profits are concerned.

Mr. CHAMBERLAIN. I will state to the Senator that there is not anything of that kind in the bill.

Mr. McKELLAR. Mr. President, further in reference to "prospective or possible profits," especially I desire to call the attention of the Senator from Wisconsin and of other Senators to section 6 of the bill which is known as the Hitchcock bill, which was prepared by our subcommittee and reported out of the full committee; and I desire for just a moment to explain what that means. It is a little different from the bill which has since been reported by the committee, known as the Chamberlain bill. The committee at first reported out what is known as the Hitchcock bill, which provided for a commission to take charge of the settlement of these claims and to pass upon them. I think, as a matter of fact, when Senators come to consider the matter here they will agree with the Senator from Nebraska [Mr. Hitchcock] and myself that that is the wisest bill. I especially desire to call Senators' attention to section 6 of the Hitchcock bill, which reads:

That in no case, however, shall any award either by the commission or the Court of Claims include prospective or possible profits on any part of the contract beyond the goods and supplies received and actually delivered to the United States, and a remuneration for expenses necessarily incurred in preparing to perform said contract or order so canceled.

Mr. POMERENE, Mr. LENROOT, and Mr. STERLING addressed the Chair.

Mr. McKELLAR. I yield first to the Senator from Ohio.

Mr. POMERENE. Am I right in understanding that the words "for expenses necessarily incurred" include the cost of any additional equipment and machinery or plants or buildings or anything of that sort?

Mr. McKELLAR. Of course that is true. It is the purpose of this section, I will say to the Senator, to exclude the kind of profits that were spoken of awhile ago by the Senator from Wisconsin [Mr. Lenroot]. I thought that that particular provision was in the pending bill as reported by the committee; but I find that it is contained in what is known as the Hitchcock bill. It ought to be embodied in whatever bill is passed, of course, beyond the shadow of a doubt. I now yield to the Senator from Wisconsin.

Mr. LENROOT. I simply desire to say that I agree with the Senator from Tennessee, that if section 6 is incorporated as a part of this bill it will fully cover the case and protect the Government.

Mr. McKELLAR. I will say to Senators that I intend to offer that section as an amendment to the pending bill, of course not on behalf of the committee, but I shall have to do it personally. Now I yield to the Senator from South Dakota.

Mr. STERLING. Mr. President, I was just about to ask the Senator from Tennessee as to whether or not the Hitchcock bill provided that the commission, in the first instance, instead of the Secretary of War, should pass upon the contracts, as provided in the pending bill.

Mr. McKELLAR. I am glad to explain that to the Senator. The Senator from Nebraska is going to explain it later, but, if he will permit me, I will answer the question of the Senator from South Dakota.

The Hitchcock bill was prepared by a subcommittee composed of the Senator from Nebraska [Mr. HITCHCOCK], the Senator from New Jersey [Mr. FRELINGHUYSEN], and myself. We took testimony and we heard the whole matter; we reported the bill back to the committee; and the committee reported it to the Senate favorably. There was objection to the bill, however, on the part of the War Department, because it was claimed by the department that it took the entire settlement of these contracts out of the hands of that department. At a matter of fact, it did place the whole matter of settling these contracts in the hands of the independent commission proposed to be appointed under the terms of the bill. Our authority for the appointment of such a commission was the commission which was appointed after the Spanish-American War, which we had been informed worked very well indeed. Most of the contractors, I think, were substantially in favor of that. The bill as passed by the other House merely directed the Secretary of War to go ahead and settle these contracts, his opinion and determination of the matter to be final. Of course, this does not mean that the Secretary himself settles these contracts. It practically means anyone in his department. The contractors were not, however, willing to have that done, because it left an arbitrary power in the hands of one man which might be performed by any officer—by a second lieutenant, a first lieutenant, or a major, or whoever he might be—and that would be the end of it. In view of that objection, this amendment was framed by the committee, of which I have spoken, composed of the Senator from Nebraska, the Senator from New Jersey, and myself. We provided that a commission should have original jurisdiction, should take entire charge, should have the right to appoint subcommittees or agents to take proof where necessary in localities where the contracts had been made, at the situs of the contract or of the contractees, that they should report to the commission, that then the commission should have the right to pay down 75 per cent of the amount claimed to be due, and if the contractors were not satisfied they would have the right to go into the Court of Claims for the other 25 per cent. We thought that was absolutely fair, and I still think it is fair and the best plan yet offered.

I believe—and I understand the Senator from Nebraska is of the same opinion—that, with one or two amendments added, that would be the best bill of all three, including, of course, the House bill, for I do not think anyone will contend that the House bill is right. I do not think even the War Department is satisfied with that bill. Surely it is not the bill that ought to be passed by the Senate. The Hitchcock bill comes nearer being the right thing, because it puts the matter in the hands of an independent commission to settle these contracts as equity may require. We want to be absolutely fair to the contractor, and, at the same time, we want to be absolutely fair to the Government; and we believe that under the terms of the Hitchcock substitute the Government's rights would be carefully guarded and at the same time the rights of the contractors would be absolutely and fairly and squarely guarded.

Mr. BORAH. Mr. President—

Mr. McKELLAR. I yield to the Senator from Idaho.

Mr. BORAH. Mr. President, I understand the Senator from Tennessee is now speaking in behalf of the substitute.

Mr. McKELLAR. I will say that there was a good deal of dissatisfaction with the Hitchcock substitute after it was reported by the committee. A committee of contractors came down here. They were very fair-minded men, and, by the way, aided us very greatly. They made suggestions about the matter which were very valuable. As a matter of fact, a new substitute was reported thereafter by the committee which embodied the House bill plan and under which the Secretary of War is to go ahead and work it out as best he can, and there is then given the right of appeal to a commission to be created. That is under the last substitute reported by the committee.

Mr. BORAH. How is the commission to be created?

Mr. McKELLAR. It is to be appointed by the President and confirmed by the Senate. It is to consist of three men—one from the War Department, one from the Department of Justice, and one from general business. I think if the Senator from Idaho will examine into the matter he will find that every safeguard has been used in reference to this commission.

The principal point of difference between the two plans is under the Hitchcock substitute the commission is given original jurisdiction to pass on all these claims, and it is directed to pay 75 per cent of them at once, which I think is a very proper thing, because many concerns will be likely to go into bankruptcy unless some sort of arrangement of that kind can be

made. If a contractor is dissatisfied as to the other 25 per cent, he has the right of appeal to the Court of Claims, just as is provided by law in other cases. I think that is entirely proper.

The substitute, I will say to the Senator, if he will excuse me just a moment, provides that all preliminary work shall be done by the department and that either the Government or the contractor has the right to appeal from the ruling of the department to this commission. In other words, the commission in the substitute which I will call the Chamberlain substitute, the last bill reported, makes the commission an appellate body, while the Hitchcock substitute makes it a body of original jurisdiction.

Mr. BORAH. Do I understand that the Government and the individual contractors both have the right of appeal?

Mr. McKELLAR. Both have the right of appeal. By the way, I want to call the Senator's attention to that, because it was a somewhat disputed matter in committee as to whether or not the Government ought to have the right of appeal. I think it absolutely essential that the Government, as well as the contractors, should have the right of appeal from the decision of the department.

Mr. BORAH. Whose business would it be to take such an appeal on behalf of the Government?

Mr. McKELLAR. The Department of Justice.

Mr. STERLING. Mr. President, there is this feature about the matter to which I should like to call the Senator's attention. If the representative on this commission of the Department of Justice agrees with the Secretary of War in his award there can be no appeal on the part of the Government.

Mr. BORAH. That is what I was thinking about.

Mr. McKELLAR. I will say to the Senator from South Dakota that this is about the best way the matter could be worked out; but if the Senator has any better way to give the Government an appeal, I for one will cheerfully accept it, for I desire to say that it was the earnest purpose of every member of the subcommittee and of the full committee to get a system of validating these contracts which would be fair to the contractor and as absolutely fair to the Government. In my judgment, we must protect both, and that is the committee's judgment.

Mr. BORAH. Mr. President, why not create a tribunal wholly separate and apart from the Government, composed of men who are not in any wise associated with the Government, so that we should have a tribunal passing upon the matter without violating either directly or indirectly the principle that a man shall not sit upon his own case?

Mr. McKELLAR. If the Senator from Idaho feels that way about the matter—and I agree with him heartily, for I am going to vote that way—then he should vote for the Hitchcock amendment. I am going to vote for the Hitchcock amendment first, and I will say that I endeavored to amend the committee substitute to provide the best method that we could.

Mr. POMERENE. Mr. President—

Mr. McKELLAR. I yield to the Senator from Ohio.

Mr. POMERENE. I am advised that there are about 6,000 of these contractors.

Mr. McKELLAR. There are a good many more than that number.

Mr. POMERENE. I was told the other day that there would be about 25 per cent of them in which there would be considerable dispute. The so-called Hitchcock bill provides for one trial commission. Assuming that there are 300 working days in the year, the commission would be occupied for a whole year if it tried and decided five cases a day. I know a good many of these manufacturers are very much embarrassed financially now; they need the money due them; and they need it right away. If many of them are to be held up for a goodly portion of a year before they can get an adjustment, we shall have financial ruin staring many of them in the face.

Mr. McKELLAR. If the Senator feels that way about it, I repeat he should vote for the Hitchcock amendment, and vote for it quickly, and we should pass it just as soon as we can and have it enacted into law. These contractors can get 75 per cent of their claims right away, and they can get the entire amount if they come to an agreement with the commission. I presume in 95 per cent, perhaps in 97 per cent, of the cases they will have no trouble about coming to such an agreement. I agree with the Senator that it ought to be done, and ought to be quickly done. I do not agree with the Senator about the Hitchcock plan taking so much time. I think probably 98 per cent of the cases will be adjusted by agreement without any trouble.

Mr. POMERENE. Does the Senator mean by the payment of 75 per cent of the claim 75 per cent of the amount which is found due by the commission?

Mr. McKELLAR. Yes.

Mr. BORAH. Mr. President, I was going to ask the Senator from Ohio a question before he took his seat. I think the Senator has raised a very proper point for consideration when he suggests that speedy determination of these claims might be the means of saving some men from bankruptcy.

Mr. McKELLAR. Certainly.

Mr. BORAH. But would not the same condition follow if the bill as reported by the committee were adopted, for must not somebody hear the evidence and pass upon it?

Mr. POMERENE. Oh, Mr. President, that is true, and, while I have not matured my own thoughts on the subject, my tentative idea was that perhaps there ought to be two or more of these commissions to sit concurrently.

Mr. CHAMBERLAIN. Mr. President, may I suggest to the Senator—because it is being overlooked in the discussion—that there was not a business man or representative of a business body who appeared before the committee who did not say that the so-called Hitchcock bill would delay proceedings, and that if there was a start made in the adjustment of these claims before the 1st of July under that bill it would be doing well. Not only that, but the War Department itself through its representative, Mr. Crowell, a most excellent clear-sighted business man, claimed that under the system proposed in that bill the work could not be commenced before July.

As has been suggested by the Senator from Ohio [Mr. POMERENE] there are many men who, unless there can be a speedy adjustment of these matters, must go into bankruptcy, because they have all their liquid capital in the business and the banks will not loan them any money until there has been some certification somewhere, either by the Government or some of its boards, that these contracts are going to be paid at some time in some way, in part or in full.

Mr. BORAH. Mr. President, how does the Hitchcock substitute delay the matter if we assume that somebody must examine the evidence and hear controversies and pass upon them?

Mr. CHAMBERLAIN. I am going to say in perfect frankness to Senators that not one of these measures appeals to me in its entirety, but it is a critical emergency which confronts the business of the country and I have yielded my judgment on many propositions in order to try to reach results.

The trouble about the Hitchcock commission plan is that the commission to be created is to proceed de novo. The War Department plan—and that is the plan embodied in this bill, practically—contemplates the utilization of the 32 boards already functioning in the different regional districts. Those boards have heard the testimony and practically in many cases have agreed with the contractors as to the amount of their claims, and I do not think there is any contention that their adjustments are irregular or unjust.

Mr. BORAH. Mr. President, I should consider the objection to that as being that these boards are practically in a large measure directly or indirectly settling their own affairs.

Mr. CHAMBERLAIN. If I may disabuse the Senator's mind of that impression, Mr. Crowell, at page 54 of his testimony, tells how those boards are constituted, and if the Senator will permit me, as the extract is short, I will read it. It is as follows:

We have 32 boards now functioning on this thing. Our idea was to decentralize it, so as to get speedy action and so as to get the men best in touch and who have been closest in touch with the production under these contracts. The Ordnance Department has 12 boards, and those are headed in each case by the district ordnance officer, who is in every case a man of large experience, a civilian who has been expediting and watching production in his center for a considerable period of time past. He has made up boards, which have been approved in Washington, of four or five members each. They are largely officers of the Ordnance Department, but each board has an average of one civilian from the outside. In some cases he is a prominent attorney, and in some cases he is a member of the War Industries Board, in some cases representing the War Industries Board in that particular district. The orders relating to the quartermaster supplies are being handled in the same way by 12 boards, which are functioning now in the 12 zones into which the Quartermaster Department has divided the country. There are, then, eight boards functioning in Washington, each on some specialty, such as chemical warfare service or aircraft, so that we have 32 of these boards now functioning.

I will say to the Senator that in some instances they have still larger boards functioning, where there has been great industrial activity on behalf of the War Department and where many civilians are connected with the boards.

Mr. FRELINGHUYSEN. Mr. President, if I may interrupt the Senator, I understand that the difference between the measure proposed by the Senator from Nebraska [Mr. HITCHCOCK] and the measure reported by the Committee on Military Affairs is this: There are 25,000 contracts under the War Department, 6,000 of which are informal, verbal contracts, or contracts that have not the signature of the statutory official. Those 6,000

contracts must be validated. They amount to \$1,700,000,000. The remaining 19,000 contracts are legal contracts conforming to law, and there is no dispute in regard to them. I understand that the Hitchcock bill provides that the commission to be created shall settle de novo all of the questions involved in these contracts. The War Department say that the 19,000 contracts in which they are in agreement with the contractors it is unnecessary to refer to the proposed appellate board. The bill reported by the committee, known as the War Industries Board plan, permits the War Department to settle those contracts first.

Mr. POMERENE. Mr. President, the Senator has just referred to 19,000 contracts concerning which, as I understand him, there can be no dispute as to their validity. Those contracts or at least many of them have not yet been completed. What is the War Department doing with respect to them? Is it canceling these contracts, and, if so, upon what terms? Is it paying the full profit whether the contract has been completed or not? I am asking the question for information only.

Mr. FRELINGHUYSEN. Mr. President, as I understand, the War Department has its machinery already in operation in connection with these claims. I have here a letter from the Assistant Secretary of War, Mr. Crowell, from which I read the following:

The War Department already has established and at work a machinery adequate to handle efficiently and promptly all settlements. Without now going into the details the department has a central board of contract review in each of the eight supply bureaus in Washington; also a total of 24 local or district boards in various sections of the country making settlements for the Ordnance Department and the former Quartermaster Corps. The department has also established in Washington a board of contract adjustment to which the Secretary of War refers for decision all cases in which the contractor and the contracting officer are unable to agree. Furthermore, several thousand contracting officers, accountants, investigators, and other assistants are now at work helping the boards to make prompt settlements. On the enactment of the legislation which the War Department has requested, this machinery is prepared to start immediately on the cases in which contracts were not made or signed as provided by law.

The War Department feels very earnestly that the good faith of the Government is pledged to a prompt settlement and payment of all just claims of contractors. The department stands fully ready to make such settlements and is already doing so where the contracts were made and signed as provided by law.

In a statement from the United States Chamber of Commerce forwarded to me under date of January 2, they say that subsequently the officials of the War Department have reported 669 agreements out of the 6,000.

I feel that the bill should provide that the War Department should settle these contracts, provided they can come to an agreement with the contractors through the machinery that they have in the War Department, and then, if there is any conflict or difference of opinion between the contractors and the War Department they can appeal to the tribunal to be created which will stand between the War Department and the Court of Claims, whose processes are so slow. What the contractors want is to know that if they fail to agree with the War Department they will have some tribunal to which they can submit their claims.

Is it necessary to refer to the proposed commission all of the claims?

The War Department made these contracts; but many of them are agreements verbally made, and there are disagreements as to the termination provision. As to some contracts, they have not been able to get any agreement as to termination because of the fact that they had to be so hastily made. Why not let the War Department go as far as they can go in the settlement? If the two parties agree, let the department dispose of the contracts where agreement is had, and where they do not agree, let the matter be referred to the proposed tribunal.

Mr. POMERENE. Mr. President, I think in that behalf there is no difference between the Senator from New Jersey and myself. I agree with him that if these contracts can be settled on any equitable basis at all they should be settled by the War Department; but the thing that has troubled me most has been the fact that there are a large number of contracts which are in dispute, and I have feared that under the proposal here made it would perhaps be a year before many of these contracts could be adjudicated, if I can properly use that term. The machinery that is adopted here is the matter of greatest concern to me.

Mr. FRELINGHUYSEN. Mr. President, does the Senator refer to the committee bill?

Mr. POMERENE. I was referring to the commission which is provided to try the disputed claims.

Mr. FRELINGHUYSEN. The committee bill provides that the War Department through its machinery shall settle these contracts first. Of course, if they are in agreement with the contractor, there will be no reference to the proposed commis-

sion. As I understand, under the Hitchcock bill all of these contracts are to be referred to the commission.

Mr. POMERENE. I have seen a good many cases tried which the attorney said would only take one day to try, particularly where a building contract or something of that character was involved, when it subsequently developed that they would take two or three weeks before they had completed the case. If there is to be any experience of that kind before the one commission which is provided here, I am afraid we will not live to see the end of these proceedings.

Mr. BECKHAM. Mr. President, will the Senator yield for just a moment?

The PRESIDING OFFICER. The Senator from New Jersey has the floor. Does he yield to the Senator from Kentucky?

Mr. FRELINGHUYSEN. I yield to the Senator from Kentucky.

Mr. BECKHAM. Mr. President, I do not wish to take the Senator's time, but in reference to the statement of the Senator from Ohio [Mr. POMERENE], I should like to say that the committee bill recognizes the organization already established under the War Department for the settlement of these claims. That organization exists now; it has been in operation, and it is believed that a large majority of these claims can be settled by that organization, with the approval of the War Department.

If the contractor in any instance is not satisfied with the settlement arrived at, he can appeal to the board created by the bill. There is also a provision that in the event the Government, through a representative of the Department of Justice, should object to the settlement the Government may appeal to the board.

I do not think there will be any delay such as the Senator from Ohio fears in the settlement of these claims under the provisions of the committee bill. The Hitchcock bill, as I understand, involves the creation of a new organization; it does not take advantage of the organization already established and in operation. I do not think, therefore, that the Senator would find that there can be any serious delay under the establishment provided for in the committee bill.

Mr. WARREN. Mr. President, may I ask the Senator a question?

Mr. BECKHAM. Yes, sir.

Mr. WARREN. My understanding is—and I will ask the Senator if his is the same—that almost all of these contracts have been under consideration and their settlement arranged for, except as stopped by the comptroller's decision.

Mr. BECKHAM. Yes, sir.

Mr. WARREN. So that the preliminary work is all done.

Mr. BECKHAM. That is my recollection.

Mr. WARREN. And it is now a mere matter of closing legally that which has already been arranged.

Mr. BECKHAM. That is my understanding.

Mr. POMERENE. Mr. President, may I ask for information? The PRESIDING OFFICER. The Chair thinks that the Senator from New Jersey who has the floor must yield to some one particularly, if he desires to yield.

Mr. FRELINGHUYSEN. I yield to the Senator from Kentucky.

Mr. BECKHAM. I have finished. I thank the Senator.

The PRESIDING OFFICER. The Senator from New Jersey has the floor.

Mr. FRELINGHUYSEN. Mr. President, I quite agree with the Senator from Ohio that possibly some of these cases will take a long time to settle; but if you provide, as the Military Affairs Committee bill provides, that the War Department, who made these contracts, and who have all of the facts concerning them, particularly the verbal contracts and the contracts for procurement orders by telephone, are allowed to settle them, you will practically dispose of three-quarters of the contracts, because they are in agreement.

Mr. POMERENE. Mr. President, let me see if I understand the Senator correctly. He makes the statement now that these parties are in agreement with the Government. Does he mean as to the amount that is to be paid, and that that is only to depend upon the legislation validating these contracts?

Mr. FRELINGHUYSEN. Yes; as I understand, many of these contracts are already signed, but they have not been signed by the proper statutory officers, and have been declared invalid on that account. They are already formal contracts, without the proper signature. Now, there remain agreements that have been made over the telephone, verbal agreements for supplies—cloth and various quartermaster supplies—and it is only a question of coming to an agreement with the contractor who has furnished these goods; and I believe I am safe in stating that three-quarters of these contracts can be settled by agreement between the contractors and the War Department.

There will remain those contracts where the contractors refuse to accept the decision of the War Department, or the examiners, or these committees, and if they refuse to accept it they can appeal to this board. But under the Hitchcock bill, as I understand, all of these contracts are thrown into this tribunal; and I venture to say that it will take five years to settle them, judging from the experience of the Interstate Commerce Commission, for example. That commission has nine members, and during the year ending October 31 it conducted 1,000 formal proceedings and 10,000 informal proceedings. It has an organization of approximately 700 employees, and its work involved an expenditure of \$1,000,000.

Here are 6,000 contracts, at least, to be settled for \$50,000. The work of the Public Service Commission of the second New York district in 1917, with 1,350 informal proceedings, cost \$400,000. This commission is to have \$50,000, \$22,500 of which is to be expended for salaries, leaving a balance of \$27,500. Can you provide the necessary clerical assistance and examiners for \$27,500? It is ridiculous.

There is another point. There is to be a member from the Department of Justice and a member from the War Department. With a board constituted in that way, you will have the War Department appealing to a board to act as a judge, with a member of their own department acting as a judge on their own awards, and you will have the Department of Justice appealing to this board, on which sits one of the members of the appellant department. Now, the board should be differently constituted. If I were going to create this commission, I would put a banker, a lawyer, and a manufacturer on it; but it is foolish to assume that all of these 25,000 contracts can be thrown on this commission and that they can be examined and passed upon. Therefore I say that the Military Affairs Committee bill is the better measure, permitting the War Department, with its machinery and its information, to settle these contracts which it has made.

Mr. SMITH of Arizona. Mr. President, will the Senator permit me to interrupt him?

Mr. FRELINGHUYSEN. Certainly.

Mr. SMITH of Arizona. Why would it not relieve somewhat the delays suggested by the Senator from Ohio [Mr. POMERENE] if on a finding by a tribunal, whatever it happens to be, the parties could receive a certain percentage of that finding, say, 50 or 75 per cent?

Mr. OVERMAN. Seventy-five per cent is the rule.

Mr. McKELLAR. That is what is provided here.

Mr. FRELINGHUYSEN. That is what both bills provide.

Mr. SMITH of Arizona. Do they provide that the party shall receive 75 per cent?

Mr. McKELLAR. Seventy-five per cent.

Mr. SMITH of Arizona. Then I do not think the question of delay cuts as much figure as it otherwise might.

Mr. THOMAS. Mr. President, I think the Senator could well add that legislation is not needed at all regarding those contracts which have been legally executed. Consequently I see no reason for including them in a measure of this sort. This is designed to meet an emergency which was created by two circumstances: One, the necessity of getting immediate results due to the exigencies of the war, and which could not be obtained if the statutory formula for the execution of contracts were observed; and the other, the sudden termination of the war, leaving all these contractors in the air.

A good many of these contracts were made in France. Personally I do not believe that the statutory requirement concerning execution applies to contracts made in France, because it is a general proposition, I think, that the place where a contract is made and the place where a contract is executed, when those two conditions exist, make the *lex loci*, or the law of the location, applicable both to its execution and to its performance and to any legal propositions or controversies that may ensue from it. So that this emergency legislation is needed to meet that class of contracts, and that class of contracts only, which, because of their failure of proper statutory execution, require legislation. As to the others, the department can proceed under existing conditions; and as a consequence I think they should be excluded from the operations of a bill like this.

Mr. CUMMINS. Mr. President, I should like the Senator from New Jersey to put me straight upon one or two things that seem to me obscure, if he will allow me.

Mr. FRELINGHUYSEN. I yield the floor to the Senator.

Mr. CUMMINS. No; I do not want the Senator to yield the floor, because I want to ask him a question.

Mr. FRELINGHUYSEN. I retain the floor, then, and await the Senator's question.

Mr. CUMMINS. The Senator has said, and I see it is very clear, that there are two classes of contracts provided for in the bill. The first relates to those contracts that have been

executed or reduced to form, but not signed by the proper officer of the Government, or in the way provided by law. That is right; is it not?

Mr. FRELINGHUYSEN. Yes.

Mr. CUMMINS. The second relates to those cases in which the contract has not been reduced to form at all, but orders having been given looking to the execution of the contract or something of that kind expenditures have been made on the faith of the contract yet to be reduced to form. Those are the two classes. When these contracts are validated is it the intention that the damages which arise on account of their nonperformance shall be settled according to the established rules of the law as those rules would apply between individuals in like circumstances?

Mr. FRELINGHUYSEN. As I understand the bill it provides that where such an agreement was reduced to contract form and executed or signed on behalf of the Government, but the execution or signing was not in compliance with statutory requirements, the Secretary of War is directed to waive, on behalf of the Government, such noncompliance.

Mr. CUMMINS. Yes.

Mr. FRELINGHUYSEN. That answers the Senator's question in regard to the contracts that were not signed by the proper statutory officials. The bill provides further—

Mr. LENROOT. Mr. President, will the Senator yield at that point before he gets away from it?

Mr. FRELINGHUYSEN. Yes.

Mr. LENROOT. I have been informed since this discussion arose that the validating portion of paragraph 1 as recommended by the War Department did not cover procurement orders, and I should like to ask the Senator how and why that was inserted.

Mr. FRELINGHUYSEN. As I understand, this bill was drawn—the chairman can probably answer that question better than I—at the request or instance of the War Industries Board. I do not know whether the original bill contained that language or not.

Mr. McKELLAR. Mr. President, if the Senator will permit me, I shall be glad to state what happened.

Mr. FRELINGHUYSEN. Yes.

Mr. McKELLAR. The words "procurement orders" were not in the original draft of the amendment, and the reason why they were not was because the committee did not at that time know—it had no information before it—that any of these written contracts were in the form of what are called procurement orders. I think it was the Assistant Secretary of War who brought out that fact first, and then a number of the contractors appeared before the committee and testified that instead of having a formal contract, as provided in this first section, many of them had what were known as procurement orders that were in writing, but a peculiar form of contract that did not accord with what the law provided should be done, and yet it was in writing and set out the terms. Thereupon the committee included procurement orders with the other written contracts.

Mr. WARREN. Mr. President, will the Senator allow me to interrupt him at that point?

Mr. McKELLAR. The Senator from Iowa [Mr. CUMMINS] has the floor.

Mr. CUMMINS. I want to pursue for a moment the inquiry I made, because this other matter really relates to another phase of the subject.

Mr. FRELINGHUYSEN. I have just yielded to the Senator from Iowa, and I understand he has not finished.

Mr. CUMMINS. No; I have not finished.

The Senator from New Jersey has said that the first paragraph was intended only to validate certain contracts because they had not been signed by the proper officials. Suppose, then, that we validate a contract of that kind, and that the Government does not carry out the contract—that is, does not take the goods or the commodities, whatever is intended to be furnished by the contractor. There is nothing at all in this bill that relates to the settlement of that kind of a case, is there?

Mr. FRELINGHUYSEN. As I understand the bill which we are discussing, the failure of compliance on the part of the War Department will result in an appeal by the contractors to this commission.

Mr. WARREN. Mr. President, will the Senator allow me right there?

Mr. FRELINGHUYSEN. Yes.

Mr. CUMMINS. I have not read the bill carefully, but I do not find anything in the bill that relates to or covers the case I have just put.

Mr. WARREN. If the Senator will allow me, that is to cover the foreign contracts where they are made by other countries in

that way. For instance, our Army abroad made its contracts on letters of purchase and their approval, the same as the English, French, and Italians did. Now, as nearly as we can learn, the comptroller had not in mind, in the finding he made as to our contracts here, that it should apply to those abroad; but his deputy, immediately upon the promulgation of the order, made it applicable there. That throws all of these contracts, perfectly legitimate under the laws and practices there, into the scrap heap with the others.

Mr. CUMMINS. But I think the Senator from Wyoming has not the point in mind. I will instance a case as it was put to me.

A contractor of my own State enters into an agreement with the Government to furnish certain things.

Mr. WARREN. I was not alluding to American contracts.

Mr. CUMMINS. The contract, however, is not signed by the official whose signature is necessary in order to make it valid. This first paragraph validates a contract of that sort.

Mr. FRELINGHUYSEN. Yes.

Mr. CUMMINS. Now, it being validated, what becomes of it when the Government refuses to carry it out? Is there anything here that will enable that contractor to apply to the commission, or take an appeal, or in any way secure a settlement, save as the War Department in its regular organization may see fit to settle with him? That is the point that is bothering me about the first paragraph.

Mr. FRELINGHUYSEN. In reading the section which creates the commission, I fail to find therein any provision for an appeal. Possibly the Senator from Tennessee can answer that question.

Mr. McKELLAR. Why, surely. If the Senator will look on page 7, he will see that if the War Department and the contractor do not agree, or if the contractor does not feel that the War Department has treated him fairly in the matter of giving him as much as he is entitled to, he has the right to appeal. That is shown on line 11, page 7, of the bill:

That within 30 days of the date when the Secretary of War tenders any contract or compensation as provided in this act—

That is, validates the one, or fixes the other—

or refuses to tender such contract or compensation, the party to whom said contract or compensation is tendered or refused, or the Government by a duly authorized officer from the Department of Justice, may file with the chairman of the commission a notice of appeal.

Then that committee hear it de novo as a court of appeal from the ruling of the War Department.

Mr. CUMMINS. But my difficulty is in finding in that language any reference to the first paragraph of this bill. I do not believe it covers, in its present terms, a contract that is validated simply because unsigned by the proper official.

Mr. McKELLAR. If the Senator will read all of section 2 he will find that it applies to section 1, and that follows as a necessary consequence. There is not the slightest trouble about it—not the slightest.

Mr. LENROOT. Mr. President, will the Senator yield?

Mr. McKELLAR. I have not the floor, as a matter of fact, but I will yield to the Senator.

Mr. LENROOT. I merely wish to call the Senator's attention to the fact that the provision with reference to appeals that he is now quoting relates only to cases where the Secretary is authorized by this bill to make compensation, and this bill does not authorize the Secretary to make compensation upon a valid contract.

Mr. McKELLAR. No; it does not. That was not what the Senator from Iowa was speaking of, however.

Mr. CUMMINS. Precisely; that is just what I was speaking of. At the beginning of line 11 the bill provides—

Mr. McKELLAR. Just look at line 12.

Mr. CUMMINS. I am going to read it now.

Mr. McKELLAR. The Senator will find that it is absolutely plain.

Mr. CUMMINS. (reading)—

That within 30 days of the date when the Secretary of War tenders any contract or compensation as provided in this act, or refuses to tender such contract or compensation—

Those are the cases in which appeals could be made to the commission.

Mr. McKELLAR. Yes.

Mr. CUMMINS. But, under the validated contract of paragraph 1, the Secretary of War does not tender any contract nor does he tender any compensation.

Mr. McKELLAR. Oh, yes; the point is this, if the Senator will permit me: Here is a contract that is all right except that it is signed by the wrong officer, we will say. It is all written out and the contractor has one copy and the Secretary of War has the other. The Secretary validates that contract and

tenders it to the contractor, and it comes directly within that language.

Mr. CUMMINS. No; there is not anything to indicate that he tenders it to the contractor.

Mr. McKELLAR. There will be a great many things done that are not specifically provided.

Mr. CUMMINS. Paragraph 2 of the bill very distinctly provides for the tender of a contract and for the tender of compensation; but I am afraid that the committee—of course, unintentionally—has excluded entirely the settlement of those cases which are simply under validated contracts.

Mr. McKELLAR. Oh, I do not think so.

Mr. FRELINGHUYSEN. Mr. President, I think possibly the Senator from Iowa might suggest an amendment to carry out his idea.

Mr. CUMMINS. That is easy enough. It would not be hard to suggest an amendment.

Mr. McKELLAR. If the Senator will suggest one, I am sure we shall be delighted to have it inserted to make it clear.

Mr. CUMMINS. I should like to ask the Senator from Tennessee another question, or the Senator from New Jersey.

Mr. McKELLAR. Surely.

Mr. CUMMINS. In lines 16 and 17, on page 4, it is said, speaking of the validation of contracts:

Provided, That he finds such waiver is not inconsistent with the public interest.

It seems to me that if the Government has made a contract with an officer, and all that it lacks is the statutory authority of that officer to enter into the contract or to sign the contract, it is hardly fair to give the Secretary of War the privilege of saying that the Government shall not be bound by that contract if he finds that it is not consistent with the public interest.

Mr. McKELLAR. There is not any intention of that. It refers to an entirely different situation.

If the Senator has finished, I should like to discuss another phase of this question for just a moment.

Mr. OVERMAN. Mr. President, before the Senator begins—

Mr. FRELINGHUYSEN. I yield the floor.

Mr. LENROOT. Before the Senator from New Jersey yields the floor, I should like to ask him a question on another branch of the bill.

As I read this bill, it legalizes a claim against the Government on the part of one who has performed services or expended money upon the request merely of one who is not authorized in any way to make a contract, but one who has been requested to aid the War Department in the procurement of munitions. In other words, a dollar-a-year man in the War Industries Board has requested some one to do something, under the belief that he will later get a contract, and this bill will give that man a legal claim against the Government. Am I correct?

Mr. FRELINGHUYSEN. I think the Senator is correct.

Mr. McKELLAR. I will say to the Senator that that is the proposition I want to discuss for just a moment when the Senator yields; and I shall be very glad to answer the Senator's question when I come to discuss it.

Mr. FRELINGHUYSEN. I yield to the Senator.

Mr. McKELLAR. Now I yield to the Senator from North Carolina.

Mr. OVERMAN. What I wanted to ask was this: Many of these contracts, two-third of them, are subcontracts. A man gets a contract to furnish a million pairs of shoes. He can not furnish them, so he lets it out to a subcontractor. I want to know if there is any provision in this bill to take care of the interests of those subcontractors?

Mr. McKELLAR. None whatever. They are not contractors with the Government.

Mr. OVERMAN. Here is a man, now, who has a contract with the Government for \$2,000,000 worth of shoes. You recognize him and settle with him; but the man who made the shoes, who furnished the shoes, you do not take care of at all.

Mr. McKELLAR. That is true.

Mr. OVERMAN. Does not the Senator think there ought to be some provision by which this whole matter shall be considered, and the man who has absolutely furnished the material shall have his money?

Mr. McKELLAR. I think, if the Senator will vote for the Hitchcock substitute, he will find that that will be taken care of.

Mr. FLETCHER. Mr. President, I should like to have the Senator explain that and point out where it is. I think the bill reads much better, on the point the Senator from North Carolina refers to, than the Hitchcock amendment.

Mr. McKELLAR. If Senators will give me their attention for just a few minutes I want to discuss the class of cases to which the Senator from Wisconsin [Mr. LENROOT] so properly referred just a few minutes ago.

We all know that in the very active campaign we have had here during this war there have been many volunteers, men connected with certain lines of business, who have come down here and represented the Government in connection with those very lines of business; and in order to bring that matter directly to the attention of the Senate I am going to take the liberty of reading just a little of the testimony of three witnesses, one connected with the dye industry of the country, one with the clothing industry of the country, and a third with the vehicle industry of the country. I want to explain, before I read this testimony, that it shows the vital necessity of having some independent commission to pass upon the question of contracts with the Government.

I want to call attention to the fact that under the bill as reported by the House many of the officers who are going to settle these contracts for the Government will simply settle with themselves, and the Government has to pay whatever these gentlemen feel like taking. Let us suppose, for a minute, that it is contract on dyes. I produce the testimony of Mr. Rice, taken before our committee:

Senator McKELLAR. Who is the Southbridge Printing Co.?

Mr. RICE. A concern at Southbridge, Mass. They have been in sulphur dyeing for the last two years or more.

Senator McKELLAR. Who owns it?

Mr. RICE. Mr. Schuster, Mr. Heyward, Mr. Saunders—James A. Saunders—R. A. Rice, and Mr. Myrick. Mr. Hartley had some stock in there.

One of these gentlemen is the brother, the other the partner, of the witness, who is in charge of the Government dye bureau here in the city of Washington, buying millions of dollars worth of dye work, taking millions of dollars worth of dye work for the Government. Now, listen to this:

Senator McKELLAR. Who is Mr. R. A. Rice?

Mr. RICE. He is a brother of mine.

Senator McKELLAR. He is still interested in it?

Mr. RICE. Yes; he is still interested in it.

Senator McKELLAR. What amount of stock does he own?

Mr. RICE. It is my recollection, something like 75 shares. I would not state exactly. Of course that is of record.

Senator McKELLAR. What interest did you have in the business before you came down here?

Mr. RICE. I had about a little over one-quarter of the stock.

This was a dollar-a-year man who is testifying now, and this is one of the men who will settle with the dye interests if you pass the House bill and have no independent commission.

Senator McKELLAR. How much is it capitalized at?

Mr. RICE. \$135,000.

Senator McKELLAR. How much, in contracts, has that concern got?

Mr. RICE. I believe about, all told, during the year—of course, I can give you an exact account of it.

Senator McKELLAR. I would be glad to have it.

Mr. RICE. About 3,000,000 yards.

Senator McKELLAR. Three million yards?

Mr. RICE. The recent contract, the gas-defense contract, they are doing some of the paraffining for the gas defense.

Senator McKELLAR. What did you do with your stock? To whom did you sell it?

He testified that he sold the stock.

Mr. RICE. To my wife. The Quartermaster's Department stated that should be done, and I transferred it to my wife.

Senator McKELLAR. You did not sell it to her, did you?

Mr. RICE. I just transferred it over for \$2.

Senator McKELLAR. You just put it in her name so you would not be interested in it?

Mr. RICE. Yes; I transferred it over to her. In other words, it belongs to her.

Senator McKELLAR. Is there any other company you are connected with which you transferred to your wife the stock in?

Mr. RICE. Yes; I had some stock of the Fiskdale Finishing Co.

Senator McKELLAR. What is the capital of that company?

Mr. RICE. The capital is \$200,000 preferred and \$300,000 common.

Senator McKELLAR. And what was your interest in that?

Mr. RICE. My recollection is that it was a little over a quarter interest.

Senator McKELLAR. And you transferred that to your wife?

Mr. RICE. That was in the common stock of that company; and I had, I think, about \$15,000, if I recall, of preferred stock. I turned that over to my wife.

Senator McKELLAR. Have you done any business with that company?

Mr. RICE. Yes, sir.

Senator McKELLAR. How much have you allotted to them?

Mr. RICE. I should say about 3,000,000 yards during the year.

Senator McKELLAR. Have those contracts been filled?

Mr. RICE. Not all of them. They are working on them now. In fact, some of the material has been delivered to them. Gray mills are behind on the gray contracts.

Senator McKELLAR. Are there any other companies with which you were connected?

Mr. RICE. No, sir; those are the only two companies I had owned any stock in.

Senator McKELLAR. Your partnership was with Mr. Myrick?

Mr. RICE. Mr. Myrick.

Senator McKELLAR. What contract have you with Mr. Myrick about your firm business while you are down here?

Mr. RICE. None whatever. I sold out to Mr. Myrick. I have resigned and am no longer a member of the firm of Myrick & Rice. I am out of it entirely.

Senator McKellar. Who are the owners of that firm?

Mr. RICE. Mr. Myrick is the sole owner now of the firm.

Senator McKellar. Would you object to stating upon what terms you sold out that business?

Mr. RICE. Certainly; I will be glad to state. I sold out of the firm for \$5,000, and all the interest that I had there for \$15,000, the total amounting to \$20,000. The \$15,000, of course, was to pay for back contracts on commercial business; nothing whatever on any Government business.

Senator McKellar. When were these transactions; last March, before you came down here?

Mr. RICE. Last March; yes.

Senator McKellar. At whose instance did you come?

The plot still thickens!

Mr. RICE. At the request of Mr. Albert Scott and Mr. Miller Wilson.

Senator McKellar. What has become of Mr. Scott? What is he doing now?

Mr. RICE. I could not say. He is in Boston. I could not tell you just what he is doing.

Senator McKellar. Mr. Scott was interested in nearly all these mills, was he not?

Mr. RICE. I could not say.

Senator McKellar. You did not know that he had had large interests in them?

Mr. RICE. No, sir; I did not know anything about it. In fact, I had never met Mr. Scott but once, in 1917.

Senator McKellar. Mr. Scott, I do not believe, had any interest in any of these competing plants, but he had interests in all the cotton manufactories, or was represented in them.

Mr. DONALD. Only a very few, Senator.

I am not going to read all this testimony, but what he testified was that he was down here representing the Government, buying from the mills in which he formerly owned the stock and which he transferred to his wife without compensation, and that they were getting the dividends from that stock, and it was paying very handsomely, too. If when we turn these contracts over to the Secretary of War, as provided by the House, we are going to turn the settlement of the contract over to Mr. Rice, who may still be a dollar-a-year man, as I understand, or was a short time ago; is that right? Does any Senator feel that he wants to do that? Why pass any bill at all? Why not just invite the contractors and these dollar-a-year men to come down and take what they want?

Mr. FRELINGHUYSEN. Will the Senator suffer an interruption?

Mr. McKellar. I will be delighted.

Mr. FRELINGHUYSEN. Of course, no one will indorse such a practice as the Senator has pointed out in reading the testimony, but can not the interests of the Government be safeguarded against such fraud, if fraud it is?

Mr. McKellar. It can not be under the bill introduced in the House. I believe it can be safeguarded under the Hitchcock bill, with section 3 of the substitute bill as an amendment. I hope it can. I do not know whether that will do it or not. It is mighty hard to get around these gentlemen.

Mr. FRELINGHUYSEN. I suggest to the Senator that on page 4 of the committee amendment the Senator from Wisconsin [Mr. LENROOT] suggested that it would improve the bill and protect the Government against such a practice the Senator has pointed out in the testimony taken before the Committee on Military Affairs by striking out, on line 6, page 4, the words "to produce or aid in procuring the same for the War Department."

Mr. McKellar. That would help it some, but it is perfectly evident to me that if this were a solitary example that I was referring to here there might not be a great deal in the contention. However, this is the rule and not the exception. I do not say it is a universal rule, but the rule very largely. For instance, in the Clothing and Equipage Division I have the testimony here of Mr. H. L. Bailey, the chairman of that division. He testified that he had stock in a number of concerns, and he transferred it to his wife and then did business with his wife's concern and the concern of Wellington, Sears & Co., and expected to go back as soon as the war is over. I am not going to read that testimony, but I ask unanimous consent to put it in the RECORD. I think Senators ought to have it.

The VICE PRESIDENT. Without objection, it will be printed in the RECORD.

The matter referred to is as follows:

THE CASE OF H. L. BAILEY.

The case of H. L. Bailey, who is chief of the cotton-goods branch of the Clothing and Equipage Division, is somewhat similar to that of Mr. Rice. Mr. Bailey was a partner of the Wellington, Sears & Co., one of the largest cotton-goods firms of the country. He also owned stock in one cotton mill, and his wife had stock in two cotton mills. He had stock in the Gluck Mills, of Anderson, S. C., and his wife owned stock in the Lanett Cotton Mills, Lanett, Ala., and the Equinox Mills, of Anderson, S. C. He bought from both the Lanett and Equinox Mills.

Senator McKellar. Now, virtually speaking, this compensation is, with the exception of Commander Hancock, fixed by the trade? In other words, you gentlemen are all affiliated with the cotton trade?

Mr. BAILEY. I do not know what you mean by "affiliated."

Senator McKellar. I mean connected.

Mr. BAILEY. I am an experienced cotton manufacturer and have come from the industry.

Senator McKellar. You are not connected with it at the present time, but you came from the firm of Wellington, Sears & Co. and were what is known as a dollar-a-year man?

Mr. BAILEY. Yes.

Senator McKellar. And you went out of Wellington, Sears & Co. after you went into the service of the Government as a dollar-a-year man?

Mr. BAILEY. I did.

Senator McKellar. And there is no use our attempting to camouflage the thing one way or another. We might as well look it right square in the face. When this war is over you are going back in the cotton trade, of course.

Mr. BAILEY. I am, as I have to support my family.

Senator McKellar. Of course; and your interests and expectations are all in that trade; and it does seem to me that we could devise a plan that would make a real buyer and seller. As it is now, you gentlemen just fix the amount at such figure as you think would be reasonable, upon such basis as you think fit, and the Government foots the bill; and I see here from the public print that there never has been such marvelous prosperity to the cotton mills of the country. That is natural and, in a way, that is admirably right.

Mr. BAILEY. Yes.

Senator McKellar. But I do not think that they ought to take such tremendous profits; and they are taking enormous profits. Now, Mr. Scott testified frankly that there were from 8 to 10 turnovers a year, and that they allowed on the basis of 12½ per cent on a turnover. By an easy calculation, that is from 100 to 150 per cent a year.

Mr. BAILEY. Did Mr. Scott testify that there were from 8 to 10 turnovers a year?

Senator McKellar. Yes; that is my recollection.

Mr. BAILEY. Either you or Mr. Scott are mistaken.

Senator McKellar. How many turnovers are there a year?

Mr. BAILEY. It varies with the different kinds of goods.

Senator McKellar. Just enumerate the different kinds of goods, if you will, because I do not want to have any mistake about it. I do not want to be mistaken about it. Take the white duck used for tentage, and how many turnovers are there a year on that?

Mr. BAILEY. I will have to make a little computation here on that.

Senator McKellar. As a matter of fact, Mr. Bailey, the real committee that fixes prices is the small committee composed of Mr. Scott, yourself, and Commander Hancock and Mr. Turner?

Mr. BAILEY. Absolutely not, sir.

Senator McKellar. In what instance has any fixing of prices ever been changed by the big committee?

Mr. BAILEY. The low basis of prices which was submitted by this war-service committee before I became a member of the smaller committee, and which was put up to the large committee by the smaller committee was—well, I will not say repudiated, because it is too strong a word; but it was not allowed by the large committee, and the industry was called in conference by the large committee and the matters were thrashed out and the basis arranged in conference with the large committee and not by the small committee.

Senator McKellar. Was that one approved by the small committee—that one that was adopted?

Mr. BAILEY. I was not a member of the small committee at the time. It was approved to the extent that it was put up to the large committee.

Senator McKellar. What I want to know is, has any recommendation of the small committee, since you have been a member of it, ever been turned down by the big committee?

Mr. BAILEY. The small committee since I have been a member of it has not taken the responsibility for these prices. It has merely discussed the details, and a group of experts appointed by the price-fixing committee of the War Industries Board has been intrusted with the responsibility of supervising the differentials made for different cotton fabrics.

Senator McKellar. Now, what committee is that?

Mr. BAILEY. I have not taken any responsibility for the price fixing.

Senator McKellar. What is this supervising committee? Whom is that composed of?

Mr. BAILEY. It is composed of two mill engineers, Mr. Makepeace and Mr. Sirrine.

Senator McKellar. Anybody else?

Mr. BAILEY. No.

Senator McKellar. Who is Mr. Makepeace, and what mill is he connected with?

Mr. BAILEY. He is not connected with any mill. He is an engineer of Providence, R. I.

Senator McKellar. An engineer. Whom does he work for? What is his first name?

Mr. BAILEY. He has his own concern. I can not recall his first name, for the moment.

Senator McKellar. What kind of an engineer is he? What does he know about making prices for cotton goods?

Mr. BAILEY. He is a construction engineer.

Senator McKellar. What does he know about making prices for cotton goods?

Mr. BAILEY. I should think that would be a proper question for him to answer, Senator McKellar.

Senator McKellar. I know, but I just want to find out something about him.

Mr. BAILEY. He is a man who lays out mills for making certain grades of fabrics, who is presumably well informed as to the present cost of such mills, as to the past cost of such mills, their productive capacity, and for that reason the profit per pound which they should have to give them a certain return on their capital invested, and that sort of thing.

Senator McKellar. Is he employed by cotton mills—to construct cotton mills?

Mr. BAILEY. Yes.

Senator McKellar. Is he in them, personally?

Mr. BAILEY. Very likely, but I do not know. I have no knowledge of it.

Senator McKellar. Who is Mr. Sirrine?

Mr. BAILEY. He is also a mill engineer, of Greenville, S. C.

Senator McKellar. Does he own mills, too?

Mr. BAILEY. I do not know.

Senator McKellar. Or is he interested in their ownership?

Mr. BAILEY. I do not know. My description of Mr. Makepeace would apply to Mr. Sirmine also.

Senator McKELLAR. Is it not a fact that with the exception of the Army and Navy officers, every man connected with the price fixing is directly or indirectly connected with the cotton trade?

Mr. BAILEY. No, sir.

Senator McKELLAR. Now, name any that are not.

Mr. BAILEY. Mr. Brookings, Mr. Baruch, Prof. Taussig, and Mr. Franey.

Senator McKELLAR. Was Mr. Brookings ever connected with it?

Mr. BAILEY. No, sir.

Senator McKELLAR. What was his business?

Mr. BAILEY. He was the president of the Samuel Couples Woodenware Co., of St. Louis.

Senator McKELLAR. Prof. Taussig never was connected with the cotton trade?

Mr. BAILEY. Not to my knowledge. He was a professor at Harvard College.

Senator McKELLAR. I know he was. I did not know what his business was prior to that. Do you know whether Mr. Baruch or Prof. Taussig or Mr. Brookings have ever gone themselves into the figures submitted by these various committees?

Mr. BAILEY. Mr. Brookings has himself in great detail, and so has Mr. Baruch. Mr. Baruch was present and spoke at length at one meeting of the price-fixing committee.

Senator McKELLAR. Have they ever taken into consideration the profits made by these concerns?

Mr. BAILEY. The profits that have been made?

Senator McKELLAR. That are being made out of the Government by these various selling concerns.

Mr. BAILEY. I think so.

Senator McKELLAR. If you have taken that into consideration, what profits have been made by any of the mills, and give their profits that you considered.

Mr. BAILEY. I am not qualified to do that, Senator McKellar.

Senator McKELLAR. And give the dates.

Mr. BAILEY. I haven't them.

Senator McKELLAR. Did you ever consider it in making these prices?

Mr. BAILEY. Yes. For instance, we have been allocating heavy duck from about 40 mills. Now, some of those mills would make double the profit of others, at the same price. But I want to record with you that the large profits made by the cotton mills, the marvelous profits that you have spoken of, have not been made on Government contracts, but because they have been selling their commercial contracts at much higher prices than the Government has been paying, and that all of that excess was an additional profit; and further, that these mills have, within the last year and a half, gone from cotton below 20 cents a pound to cotton at 36 or 37 cents a pound, which in itself would mean an enormous profit on their raw material. They have got the other end of that coming.

Senator McKELLAR. Does the price change from time to time?

Mr. BAILEY. Oh yes—not since price fixing.

Senator McKELLAR. When did you have the first price fixing?

Mr. BAILEY. The first price fixing was made the latter part of June, to be effective from June 8, I believe.

Senator McKELLAR. And then you paid the same prices for all cotton goods bought—I mean of the same grade and quality?

Mr. BAILEY. Since that time.

Senator McKELLAR. Since that time?

Mr. BAILEY. From normal producers.

Senator McKELLAR. Have you a statement from the mills in which you and Mrs. Bailey are interested as to the profits made for last year and this year?

Mr. BAILEY. No; I have no idea what they are. I have been very busy with other things.

Senator McKELLAR. You do not know what dividends they pay?

Mr. BAILEY. I haven't it in mind, you know.

Senator McKELLAR. Do you know what dividends any of these mills pay that you have been doing business with? Have you it in mind?

Mr. BAILEY. No; I have not.

Senator McKELLAR. You fixing prices this way, would not that be very important knowledge for you to have?

Mr. BAILEY. I think—

Senator McKELLAR. Is not that the most important knowledge that you could have if you were going to fix the price? For instance, if you were going to fix the price for lumber produced by me—I am not in the lumber business, but used to be many years ago—suppose you were going to fix the price of lumber and I was a going concern and had a large business, and we were selling to you and had been selling to you on Government contracts—

Mr. BAILEY. Yes.

Senator McKELLAR. Would it not be very important for you to know what profits I was making on that lumber before you undertook to fix the price?

Mr. BAILEY. If you were a corporation and were selling the Government at a lower price than you were selling your civilian business, I should say that the profits you were making were no indication of what a fair price would be on your lumber.

Senator McKELLAR. Taking it about selling the Government at a lower price, the fact that the Government is in the market for these cotton goods is one of the things that has made cotton goods soar?

Mr. BAILEY. Definitely; yes.

Senator McKELLAR. Yes.

Mr. BAILEY. But that is not my problem, you know.

Senator McKELLAR. But your problem is when you fix the price that you give the seller a reasonable profit, is it not?

Mr. BAILEY. Yes.

Senator McKELLAR. How can you tell what a reasonable price is unless you know what his profit is?

Mr. DONALD. Mr. Bailey testified that he is not on that price-fixing committee.

Senator McKELLAR. I know, but he has recommended to them.

Mr. DONALD. He has never recommended to them.

Senator McKELLAR. Have you never recommended to them?

Mr. BAILEY. I have not, officially.

Senator McKELLAR. That is just the thing. I can understand how a price might not be recommended officially and yet just as effectively. As you will recall, one of the things I have been decrying for over a year is these unofficial committees actually doing the work, and I have a letter from the Secretary of War assuring me that there was not an unofficial committee in operation, yet I find them at almost every turn of the road where unofficial committees are recommending prices.

Mr. BAILEY. You mistake the intention of my remark.

Senator McKELLAR. Well, of course I do not want to do that.

Mr. BAILEY. As one of probably 25 in a meeting with the War Industries Board price-fixing committee I have participated in a discussion regarding prices. My influence has not been on the side of increasing prices of cotton goods, Senator McKELLAR.

Senator McKELLAR. Well, now, do you actually, whether officially or unofficially, recommend prices?

Mr. BAILEY. At the present time?

Senator McKELLAR. At the present time.

Mr. BAILEY. No; I do not.

Senator McKELLAR. Have you ever done it?

Mr. BAILEY. Oh, yes.

Senator McKELLAR. When did you stop?

Mr. BAILEY. When—

Senator McKELLAR. The price was fixed?

Mr. BAILEY. When price fixing came into effect.

Mr. FLETCHER. May I ask the Senator whether he said it will be a case of these gentlemen passing upon their own irregular contracts?

Mr. McKELLAR. Absolutely.

Mr. FLETCHER. For instance, the Secretary of War or the Assistant Secretary of War has stated that they have an original board going into this question, and then they have contract review boards.

Mr. McKELLAR. I understand all that, but it is the man who represents the Government in the initial proceeding who commits the Government and the review board really adopts what he does.

Mr. FLETCHER. That is the question. The review boards are not there for that purpose.

Mr. McKELLAR. I will say this to the Senator and let him think it over himself. I earnestly asked the Secretary of War and the Quartermaster General of the Army, upon the proof I have read just awhile ago from Mr. Rice, that they would discharge Mr. Rice and get somebody who was disconnected with that industry in charge of that particular division, and they declined to do it. Mr. Rice, so far as I know, still represents the Government, although this testimony was taken several weeks ago. If that is the case, what we are doing, if we vote for the House bill or if we vote for the initial arrangement, is just to turn it over to these very gentlemen to settle their own contracts. That is all we are doing, and we might just as well invite these gentlemen to come down and take what they will, but I want Senators to do it with their eyes wide open, because those are the facts.

Mr. CHAMBERLAIN. Let me remind the Senator that we are not voting on the House bill.

Mr. McKELLAR. I know, but if you leave it to these gentlemen who are representing the department now to settle with themselves as provided under the committee bill, you are simply turning it over to them to settle on their own good judgment, and you see what kind of men you are going to settle with.

Mr. FLETCHER. I think the Senator is going rather far in that conclusion.

Mr. McKELLAR. Will the Senator read the testimony? It will be in the RECORD in the morning, and he can reach his own conclusion.

Mr. FLETCHER. I am not questioning that, but what I am interested in is that his review board has something more to do than to rubber stamp the action of some subordinate officer.

Mr. McKELLAR. Let me interrupt the Senator.

Mr. FLETCHER. I want to complete the sentence. The review board as now constituted is already operating and it is composed of Mr. Garnett, of Virginia; Mr. Lehmann, of New York; and Mr. Malone, of New York. They are actually functioning now as a board. So you can not say that they would be selected after this bill is passed with any view to passing favorably on contracts or anything of that sort.

Mr. McKELLAR. The trouble about it is that the commission established under the bill last reported out by the committee has not any jurisdiction until it is appealed to, and 95 per cent of the cases will not be appealed by either party, and you will leave it to these very men, who have been dealing with the Government in that way, to pass upon their own acts. If the Senate is willing to do that, it may do so. I am not going to vote that way myself.

I next come to the testimony of Mr. Donald, and I want to call the attention of Senators particularly to the fact that the reason for accepting dollar-a-year men was that they had peculiar knowledge of the things about which they came here to do work.

Senator McKELLAR. Mr. Donald, will you tell us your connection with the Quartermaster Corps?

Mr. DONALD. I am chief of the clothing and equipage division.

Senator McKELLAR. When did you become chief of that division?

Mr. DONALD. About June 1.

Senator McKELLAR. What was your business before?

Clothing man? Equipage man? No.

Mr. DONALD. I was a lawyer.
 Senator McKellar. Were you ever engaged in the cotton business?
 Mr. DONALD. No, sir.
 Senator McKellar. How did you happen to get into the cotton goods department of the Government?
 Mr. DONALD. Well, it is the whole clothing and equipage division.
 Senator McKellar. Well, the whole clothing and equipage division; how did you happen to get into it?
 Mr. DONALD. I was asked to come to Washington last February.
 Senator McKellar. By whom?
 Mr. DONALD. Mr. Scott, who was then chief of the division.

I will say to the Senator that Mr. Scott was the man who was discharged at my request, and for which I have been considerably criticized. He was discharged as chief of this division because of his connection with practically all the firms with which he was doing business. That appeared in the proof, and the quartermaster acted upon my request and discharged Mr. Scott. Here is Mr. Donald, a man who comes and takes Mr. Scott's place, and it develops afterwards that he is Mr. Scott's lawyer or the lawyer for Scott's firm. Now, listen to this:

I was asked to come to Washington last February.
 Senators, remember now we are turning the settlement of these contracts over to these gentlemen to settle with themselves. I sometimes think the poor old Government has not many friends around.

Mr. SMOOT. Where did Mr. Scott go?
 Mr. McKellar. He went back home; but I will give it to you from the testimony in a moment.
 Senator McKellar. Did you ever represent Mr. Scott or any of his companies before that?

Mr. DONALD. I personally have not represented Mr. Scott. My firm had done some business for Mr. Scott.
 Senator McKellar. What is your firm?
 Mr. DONALD. Herrick, Smith, Donald & Farley.
 Senator McKellar. What Herrick is that?
 Mr. DONALD. Robert F. Herrick.
 Senator McKellar. Of New York?
 Mr. DONALD. Of Boston.
 Senator McKellar. You were asked by Mr. Scott to come here?
 Mr. DONALD. Yes, sir.
 Senator McKellar. Were you familiar with the cotton trade, the clothing trade, before you came here?
 Mr. DONALD. No, sir.
 Senator McKellar. Were you ever in the clothing business or the cotton business?

Mr. DONALD. No, sir.
 Senator McKellar. You heard Mr. Bailey testify a few minutes ago that it would be difficult to find a man who had never had any experience in the business that would know enough about it to manage it for the Government. How do you get along under that definition?

Mr. DONALD. Our division is a very large division, and, of course, we have in each of our branches the men who are technical experts in the business.

Senator McKellar. Why were you selected? Do you have any idea why you were selected to come down here?

Mr. BAILEY. He is too modest to answer.
 He was too modest to answer; he did not answer, and Mr. Bailey testified for him.

Senator McKellar. Let him go right ahead. I am after the facts.
 Mr. DONALD. The clothing and equipage division was organized by Gen. Goethals in January of this year. It was an entirely new organization and they needed a large number of men to assist. I myself have recently been endeavoring to get another lawyer to come down here. I came down as general assistant, believing there would be work in which I could assist.

Senator McKellar. Referring again to your connection with cotton firms, does Herrick, Smith, Donald & Farley represent cotton manufacturers?

Mr. DONALD. There are a good many cotton manufacturers in and around Boston and New England.

That is supposed to be an answer to the question.

Senator McKellar. Just tell me offhand; I will not hold you to all of your clients in that particular line, but give me the more important ones, at any rate.

Mr. DONALD. We have, so far as I know, Senator, no retainers from any firms.

Senator McKellar. I understand that, but I want to know whom you represented. For instance, I know whether I represented the Union State Bank or the Central State Bank of Memphis, Tenn., and if you asked me what firms I represented I could give them to you that quick, or if you asked me what cotton houses I had represented I can tell you.

Mr. DONALD. My firm had four members, and it is a firm which has been in practice since 1873, and it has represented a great many different concerns at different times.

Senator McKellar. Would you give me what your firm represented, so far as you can? You have been in the firm over a year?

Mr. DONALD. Yes, sir.
 Senator McKellar. And you have been in it since the war? You are interested in it now?

Mr. DONALD. Not at the present time.

Listen to this:

Senator McKellar. You have no interest in the partnership now? Here is what he said, and I will afterwards read you what he interlined:

Mr. DONALD. Last year the firm of Herrick, Smith, Donald & Farley was formed. We were formerly members of the firm of Fish, Richardson, Herrick & Neave. Mr. Farley, one of my partners, went to Plattsburgh in April. My partner, Mr. Smith, had been in the Army and he is now abroad. The firm has practically been broken up. I do not understand that I am getting any money from the firm and I have not been since last February.

He interlines this:

I do not understand that I am getting any money from (earned by other members of) the firm and I have not been (received any) since last February. (I stated to them when I left that I did not wish to take any amounts thereafter earned by the other partners, and that I wished to share expenses if the salaried employees did not earn their expenses. If these employees earn more than their expenses, it is possible the partners may wish to apportion a share of this surplus to me, but the matter has never been arranged or seriously considered.)

I am not going to read all he said, but it is on a line with the other. Here are other firms that he represents, every one of them doing business with his division of the Government, and when you turn these contracts over to him to arrange you are going to just turn them right over to the contractors to settle. When you take either one of the first bills without an independent commission are you going to turn it over to these gentlemen to settle with themselves and with their clients?

Mr. NUGENT. Mr. President—

Mr. McKellar. I will yield in just one minute.

I asked him for the names and he said he had represented mills and cotton agents, the Queen City Cotton Mills and various others. He goes on to testify that he took Mr. Scott's place. I ask permission to insert in the Record that testimony verbatim. It is not very long.

The VICE PRESIDENT. Without objection, it is so ordered. The matter referred to is as follows:

STATEMENT OF MR. MALCOLM DONALD, CHIEF OF THE CLOTHING AND EQUIPAGE DIVISION, QUARTERMASTER CORPS.

Senator McKellar. Mr. Donald, will you tell us your connection with the Quartermaster Corps?

Mr. DONALD. I am chief of the clothing and equipage division.

Senator McKellar. When did you become chief of that division?

Mr. DONALD. About June 1.

Senator McKellar. What was your business before?

Mr. DONALD. I was a lawyer.

Senator McKellar. Were you ever engaged in the cotton business?

Mr. DONALD. No, sir.

Senator McKellar. How did you happen to get into the cotton goods department of the Government?

Mr. DONALD. Well, it is the whole clothing and equipage division.

Senator McKellar. Well, the whole clothing and equipage division; how did you happen to get into it?

Mr. DONALD. I was asked to come to Washington last February.

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Senator McKellar. Did you ever represent Mr. Scott or any of his companies before that?

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Senator McKellar. What is your firm?

Mr. DONALD. Herrick, Smith, Donald & Farley.

Senator McKellar. What Herrick is that?

Mr. DONALD. Robert F. Herrick.

Senator McKellar. Of New York?

Mr. DONALD. Of Boston.

Senator McKellar. You were asked by Mr. Scott to come here?

Mr. DONALD. Yes, sir.

Senator McKellar. Were you familiar with the cotton trade, the clothing trade, before you came here?

Mr. DONALD. No, sir.

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Senator McKellar. You heard Mr. Bailey testify a few minutes ago that it would be difficult to find a man who had never had any experience in the business that would know enough about it to manage it for the Government. How do you get along under that definition?

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Senator McKellar. Would you give me what your firm represented, so far as you can? You have been in the firm over a year?

Mr. DONALD. Yes, sir.

Senator McKellar. And you have been in it since the war? You are interested in it now?

Mr. DONALD. Not at the present time.

Senator McKellar. You have no interest in the partnership now?

Mr. DONALD. Last year the firm of Herrick, Smith, Donald & Farley was formed. We were formerly members of the firm of Fish, Richardson, Herrick & Neave. Mr. Farley, one of my partners, went to Plattsburg in April. My partner, Mr. Smith, had been in the Army and he is now abroad. The firm has practically been broken up. I do not understand that I am getting any money from (earned by other members of) the firm and I have not been (received any) since last February. (I stated to them when I left that I did not wish to take any amounts thereafter earned by the other partners, and that I wished to share expenses if the salaried employees did not earn their expenses. If these employees earn more than their expenses, it is possible the partners may wish to apportion a share of this surplus to me, but the matter has never been arranged or seriously considered.) [Italicized words in parentheses show changes made by Mr. Donald after the hearing.]

Senator McKellar. It has been dissolved?

Mr. DONALD. It has not been formally dissolved.

Senator McKellar. And there has been no modification of the agreement about profits of the firm?

Mr. DONALD. We had no written agreement.

Senator McKellar. You had no agreement?

Mr. DONALD. (No written agreement.) When I came away it was understood that I should take no further profits (did not wish to take profits thereafter earned by other members of the firm.)

Senator McKellar. I interrupted you when you were going to give me a list of the cotton manufacturers that you represented.

Mr. DONALD. We have represented the Pacific Mills and the Everett Mills.

Senator McKellar. The Everett?

Mr. DONALD. At times. We have represented the Harmony Mills; Bliss, Fabian & Co., and, I think, at times, Minot, Hooper & Co.

Senator McKellar. Did you ever represent any companies in which Mr. A. L. Scott was interested?

Mr. DONALD. The firm has.

Senator McKellar. Which ones are those? Do you know what concerns Mr. Scott is interested in? Mr. Scott is in all of them, is he not, directly or indirectly?

Mr. DONALD. He is in two or three—three or four.

Mr. BAILEY. Mr. Scott is a partner of Lockwood, Green & Co.

Mr. DONALD. J. Spencer Turner & Co. I personally did not do their work, and that is the reason, Senator, I can not tell you.

Mr. BAILEY. J. Spencer Turner & Co.?

Senator McKellar. What is that Green firm?

Mr. BAILEY. Lockwood, Green & Co.; that is the Mount Vernon-Woodbury Mills.

Mr. DONALD. It is the International Cotton Mills.

Mr. BAILEY. Yes; the International Cotton Mills.

Senator McKellar. Mr. Scott is at the head of the J. Spencer Turner Co.?

Mr. DONALD. No, sir.

Senator McKellar. What company is he the head of?

Mr. DONALD. He is not the head of any firm. He is a member of the firm of Lockwood, Green & Co., who are mill engineers, really, and who are managers of several concerns.

Mr. BAILEY. And part owners in these concerns that we have mentioned here.

Senator McKellar. You do not recall any others?

Mr. DONALD. I think our firm has doubtless represented other firms of a similar kind.

Senator McKellar. Yes. As a matter of fact, your firm is a large firm and represents a great many of these mills and cotton agents, does it not?

Mr. DONALD. It has, from time to time.

Senator McKellar. It has, from time to time?

Mr. DONALD. I believe I did a small amount of work for the Queen City Cotton Mills last year.

Senator McKellar. Have all these concerns got contracts with the Government?

Mr. DONALD. I have not the slightest idea, Senator.

Senator McKellar. Do you know whether any of them have?

Mr. DONALD. Yes; I think so.

Mr. BAILEY. They all have, unless we have overlooked them.

Senator McKellar. Unless you have overlooked them. Now, why did Mr. Scott want you, a lawyer, to come down here and engage in the cotton goods business?

Mr. DONALD. He asked me to come down and take up the question of the inspection of our goods.

Senator McKellar. When did he ask you to come down?

Mr. DONALD. In January, I think.

Senator McKellar. You came, when?

Mr. DONALD. I came in February, as I recall it.

Senator McKellar. You came as a dollar-a-year man?

Mr. DONALD. No; I have been paid a salary of \$3,500.

Senator McKellar. Whose place did you take?

Mr. DONALD. Mr. Scott's place.

Senator McKellar. You took Mr. Scott's place? You knew that Mr. Scott's resignation had been asked for because of his connection with the various concerns which he had been in business with, did you not?

Mr. DONALD. I understood that was one reason.

Senator McKellar. As a lawyer did you not feel that your coming into the same place, representing all these companies, or in part representing all these companies, would put you in virtually the same position that Mr. Scott had been in before?

Mr. DONALD. I do not understand that I am representing all these companies.

Senator McKellar. You have just testified here to representing a great number of mills, and being the legal representative of Mr. Scott himself, or one of his mills, and you say you came here at his request, and you have taken his place, and my question is that, when you have seen that Mr. Scott was asked for his resignation because of his connection with these various mills with which you say you are connected, would it not have seemed to you—I am just asking this very plainly and very bluntly—that it would put you in the same category as it would Mr. Scott? In other words, if a vice president of Mr. Scott's company, or a man interested just precisely like Mr. Scott was, had come to you and asked you for legal advice, saying that Mr. Scott had just been dismissed from the Government service because he was connected with all these cotton firms, and asked you if you would advise him to take Mr. Scott's place, under those circumstances you would not have hesitated a moment in saying that this other man who was similarly situated would fall under the same ban, would you?

Mr. DONALD. I would undertake to ask him what his connection was. The fact that some cotton mills have in the past employed me to do some legal services for them did not, to my mind, mean that I was at present interested in those cotton mills.

Senator McKellar. Who gave Mr. Scott the right to appoint you in his stead?

Mr. DONALD. Mr. Scott did not appoint me in his stead.

Senator McKellar. Who appointed you in his place?

Mr. DONALD. Gen. Wood, Acting Quartermaster General.

Senator McKellar. All right. Unless you wish to make some other statement I do not believe that there is anything further. I am greatly obliged to both of you.

I now yield to the Senator from Idaho.

Mr. NUGENT. I merely desired to ask the Senator from Tennessee which one of these numerous bills he feels will obviate the objections which he has raised.

Mr. McKellar. The Hitchcock bill, with the amendment of section 3 of the committee's bill, will come nearer doing it than any other, and that is what I propose. I suppose the Senate will perfect both that and the Hitchcock bill. I mean under the rule or under unanimous consent the Hitchcock bill will be perfected and then the committee bill will be perfected. When it comes to the perfection of the Hitchcock bill I wish to offer section 3 of the committee's bill as an amendment to that bill, and with that amendment I am going to vote for the Hitchcock bill, because I think it will come nearer obviating the difficulties I have mentioned.

I want to say that the same objection arises not only in the equipment division and the clothing division but in the dyestuffs division, but it does arise especially in the vehicle division. The testimony shows what has been done in the vehicle division and what has been done in the enamel-ware division, where one concern cut out all the rest of them, and its agent, who was a Maj. McCubbin in the Army, bought all except \$34,000 worth of enamel ware from one concern over in Pittsburgh. Under those circumstances you are just turning over to this great enamel-ware concern the right to settle with its own employees representing the Government.

Mr. CHAMBERLAIN. May I interrupt the Senator? Does the Senator mean to say that any of those representatives are on any of these boards?

Mr. McKellar. I mean to say, for instance, Col. R. W. Lea, as shown by the proof before our subcommittee, is the chief of the vehicle division. He is connected with either the Moline or Studebaker Co., I forget which—the proof will show—and has sent out instructions which I am going to ask leave to insert in the RECORD as a part of my remarks, a letter, by which it appears to me that he instructed the vehicle division how they could best get the most out of their unfinished contract with the Government. I have it not before me, but I will get it and submit it, and ask unanimous consent that it may be inserted as a part of my remarks.

There being no objection, the matter referred to was ordered to be printed in the RECORD, as follows:

[Copy.]

NOVEMBER 5, 1918.

MOTORS AND VEHICLES DIVISION,
VEHICLES BRANCH, O. B. P. & S.,
Munitions Building, Washington, D. C.

Cancellation of Escort Wheel Contract, P. O. No. ———.

1. It has been found, in the best interest of the military service, necessary to cancel a large portion of the undelivered balance of contracts for Escort wagon wheels; and your contract, as above noted, covering Escort wheels is reduced to ——— wheels, in accordance with mutual agreement reached with you when you were in the office of the Vehicle Branch at Washington, November ———, 1918. The plan of procedure covering this cancellation of ——— Escort wheels was discussed with you, and an adjustment which will save you from loss in the transaction is to be made substantially according to the following plan:

a. No payment will be made for prospective profits on the canceled portion of your contract.

b. The Government will enter into a supplemental contract with you whereby your original contract is reduced in size by the amount above stated and whereby you will be reimbursed for the following items, upon furnishing satisfactory written statements, certified as correct and checked and approved by Government officers.

2. Those items are allowable only when the expenses are incurred by you in good faith for the performance of the contract and as fairly and properly apportionable to the Escort wheels, delivery of which is now terminated.

a. Expenses of special engineering, plant organization, and miscellaneous indirect items: This item will cover these expenses which may not now be shown as tangible assets, such as the cost of perfecting organization, general engineering expenses incurred in the designing and installation of special equipment acquired, and such other provable items which in ordinary manufacturing experience cause the earlier deliveries on a contract to be less profitable than the later deliveries, by reason of delay in obtaining good production, on account of training of organization required in equipment, increased cost of administration and supervision on account of lack of acquaintance with difficulties, etc. Some firms charge such items to "job cost," in which case certified account can be easily rendered. If such practice is not employed by you, it is very necessary that you scrutinize this item carefully, so that the figures submitted may be supported by the facts gathered through possible later investigation.

Manufacturing experience usually shows that the last part of a contract renders a larger percentage of profit than the first portion of deliveries, large enough in most cases to make up for the smaller profit in the first period of production. As this portion of the contract rendering a more favorable profit is hereby canceled, some recognition of the spread of this indirect expense will be given; but you are cautioned, as stated above, to go into this matter in detail, as profits or losses vary according to the efficiency of concerns, and figures submitted on this item must be irrefutable.

Several contractors in our conference have stated that they would undoubtedly waive this claim, especially those who have been on quite similar wheel production prior to the taking of the contract which is now partially canceled.

The statement covering it, therefore, should be clear, convincing, and supported by actual cost records which you can fully substantiate.

b. Cost of facilities and equipment provided solely for the performance of this contract: This includes machinery and special tools and cost of installing these, dry kilns, buildings and necessary remodeling, and other equipment which falls within the proviso. Those items must be accompanied by a sworn statement covering the cost of all such facilities, item by item, and the statement must be clearly provable by you by original invoices, book entries, or other information submitted. To guide you in the handling of this matter an assumed case is explained below:

For example: Let us state that \$100,000 was spent on the equipment, as covered above, to take care of the manufacture of 100,000 wheels, of which 50,000 wheels are now canceled.

From this total, fully set forth, is to be deducted an amount which can be fairly and properly considered absorbed in the completed portion of the contract. In other words, as you build wheels you gradually absorb the cost of special facilities.

In the assumed case, 50,000 wheels will be built out of the 100,000 wheels for which equipment and facilities were provided. One half the original cost is therefore absorbed, and the difference is \$50,000.

From this amount (difference between original cost and cost absorbed) is to be deducted the appraised value of the facilities. This will be determined by three appraisers—one appointed by the contractor, one appointed by the contracting officers, and the third appointed by those two. This appraised value is ascertained by them—in other words, a salvage value depending upon the value of the facilities to you in your manufacture or their resale value to others or possibly scrap value, is to be deducted. In determining this, it is presumed that the expense of removing the facilities, if this should be necessary, will be considered.

In our assumed case, suppose the appraised value was \$10,000, then the sum remaining is the net compensation due you on account of expenditures made for facilities and equipment provided solely for the performance of your contract.

In this case the difference is \$40,000, and this amount will be paid to you by the Government.

In preparing the tentative statement on this Item B sub b, the appraised value will have to be left blank. When you are ready for the appraisal to be made, the appraiser selected by the contracting officers will be sent to your plant to perform this duty immediately upon notification.

c. Where you have provided in good faith items of material which will be left on hand and which are over and above the materials required in the wheels covered by the reduced contract which you will be allowed to produce, such materials will be purchased by the Government and will become the property of the United States. Such items will be covered by certified invoices and in determining unit value f. o. b. your plant there will be included an additional 10 per cent covering handling charges in and out and any other necessary compensation.

Continuing our assumed case: Say you have on hand 50,000 club turned spokes which cost you 13½ cents each at your factory. Part of these are fully finished, part kiln dried, and part green club turned. Assume that the portion of the order that you are allowed to complete consumes all of the finished and kiln-dried spokes and you have left over 16,000 green club turned spokes. You would, therefore, show this item as—16,000 green club spokes, green club turned, cost f. o. b. your factory 13½ cents each plus 10 per cent handling, 14.85 cents each—for all \$2,376. You will attach to your statement certified invoices showing the purchase and delivery of such quantity at such price.

If it happens that you have material left on hand partially finished by you the labor expended thereon will be shown by proper cost sheets certified to you as correct.

d. Cost to you to cover cancellation of obligations incurred in good faith, covering materials or work provided solely in the performance of the contract. If you have outstanding obligations for materials—hubs, for instance—above those that will be required by your revised contract, you should cancel that obligation at the lowest possible cost to yourself and at no cost if that is possible.

The basis of such a cancellation should be identical to that applied by the Government to you and as explained above. While you are urged to initiate those negotiations at once, you are requested before completing same—where it is necessary to agree to pay money to a subcontractor—to submit your tentative proposition for review by Government officers so that you will not incur an expense which they may later feel not justified in allowing. It is believed that most of these cancellations can be effected at little or no cost.

3. It is advisable for you to make your statements comprehensive and self-explanatory so that they may be acted upon complete and with dispatch and avoid delays in requesting further proofs and information.

4. It is suggested and strongly urged that there be used in the balance of your production, first the most highly manufactured materials so that there will be left over, if any, only the least expensive items as surplus. This is in the interest of conservation of labor and material and will tend to greatly reduce the loss of cancellation to the Government.

5. On account of a careful analysis of the entire stock situation and discussion with manufacturers it was shown that ample materials were already on hand to balance production at all factories and it is therefore assumed that further production of all raw materials has been stopped.

6. If an advance on your contract has been secured by you from the Government, same will in no way enter into cancellation adjustment as such. Most advances will by the end of your deliveries be largely repaid by deductions from invoices according to established plan of handling same. The unpaid balance undoubtedly is represented by surplus materials which the Government will take off your hands or by facilities and equipment of which the unabsorbed cost—less salvage—will be repaid by the Government. The above assumption is made as these loans were provided by the Government for the performance of the

contract they covered and not for materials used in the ordinary course of your manufacture or to retire bank loans then outstanding.

7. The cost of additional dry kilns, whether built on approved applications or not, should be included under B—Facilities and equipment provided by the contractor at his expense solely for this contract.

8. It is requested that you give this matter your immediate, careful consideration, forwarding all papers complete to the Motors and Vehicles Division, Vehicle Branch, Munitions Building, Washington, D. C., at the earliest practicable date.

By authority of the Director of Purchase.

R. W. LEA,

Colonel, Q. M. C., in charge Vehicle Branch.

QUARTERMASTER CORPS.

UNITED STATES SENATE,
SUBCOMMITTEE ON MILITARY AFFAIRS,
Washington, D. C., Friday, October 11, 1918.

The subcommittee met at 2 o'clock p. m., Senator KENNETH MCKELLAR presiding.

Present, Senators MCKELLAR, SUTHERLAND, and JOHNSON of California.

STATEMENT OF MAJ. JOHN C. McCUBBIN, QUARTERMASTER CORPS, UNITED STATES ARMY.

Senator MCKELLAR. Will you give your full name and title to the stenographer?

Maj. McCUBBIN. John C. McCubbin, major, Quartermaster Corps.

Senator MCKELLAR. How long have you been a major in the Quartermaster Corps?

Maj. McCUBBIN. I think it is since the 6th of September.

Senator MCKELLAR. 1917?

Maj. McCUBBIN. 1918; this past September.

Senator MCKELLAR. When were you first commissioned at all?

Maj. McCUBBIN. February 1, 1918.

Senator MCKELLAR. As what?

Maj. McCUBBIN. Captain.

Senator MCKELLAR. When did you come to work for the Government?

Maj. McCUBBIN. It was August 15, 1917.

Senator MCKELLAR. In what capacity?

Maj. McCUBBIN. As purchaser of plumbing materials.

Senator MCKELLAR. With what concern were you at the time?

Maj. McCUBBIN. The Standard Sanitary Manufacturing Co.

Senator MCKELLAR. How long had you been with that company?

Maj. McCUBBIN. Not quite three years; about, I should say, two years and eight months. I think—two years and seven or eight months.

Senator MCKELLAR. Are you interested in that company?

Maj. McCUBBIN. No, sir.

Senator MCKELLAR. How were you interested—as a salaried man?

Maj. McCUBBIN. Salaried; yes, sir.

Senator MCKELLAR. What salary did you get?

Maj. McCUBBIN. Just when I came into the company?

Senator MCKELLAR. Yes.

Maj. McCUBBIN. I was getting \$3,000 a year.

Senator MCKELLAR. When did your service with the company cease?

Maj. McCUBBIN. I think my resignation took effect the 14th, the 14th or the 15th. The matter was handled so quick, I don't know just what day. I know I was at the office one day, and went to work the next, I think.

Senator MCKELLAR. Who called you to come? At whose request did you come?

Maj. McCUBBIN. Maj. Hamilton's, who was then purchasing agent of the cantonment division.

Senator MCKELLAR. How did you happen to meet Maj. Hamilton?

Maj. McCUBBIN. I was brought to Washington—my location was changed for the Standard Co., and I was brought up to Washington on account of one of the Washington men being sick here, and the other away on his vacation; and I think the cantonment division then wanted some one to succeed Capt. Maddock, who was looking after the purchasing of material, and through Capt. Maddock, Maj. Hamilton requested that they get some one to take this place, and they communicated with the Washington office of the Standard Co. while I was here, and the commanding officer carried it over to Maj. Hamilton. [Revised by Exhibit 2, p. 611 post.]

Senator MCKELLAR. Did this arrangement have the approval at that time of the Standard Sanitary Manufacturing Co. people? [Revised by Exhibit 2, p. 611 post.]

Maj. McCUBBIN. So far as I know, it did not.

Senator MCKELLAR. Was Mr. Ahrens down here at that time?

Maj. McCUBBIN. At the time that I went into the service?

Senator MCKELLAR. When you went into the service.

Maj. McCUBBIN. No, sir.

Senator MCKELLAR. Has he been here?

Maj. McCUBBIN. He was here in November, I think, the first time, and he was here in August.

Senator MCKELLAR. What was the name of the first gentleman you mentioned?

Maj. McCUBBIN. Capt. A. M. Maddock.

Senator MCKELLAR. What position did he hold with the Government?

Maj. McCUBBIN. He was looking after the purchase of plumbing materials, working in the Government's interest, with the contract that they had with the Government; and at this time the change was made when the Government canceled the Crane & Co. contract, and looked after the purchase of their own material.

Senator MCKELLAR. Are Crane & Co. in the enameled-ware business?

Maj. McCUBBIN. They are manufacturers of steam supplies and jobbers of plumbing materials.

Senator MCKELLAR. What became of Capt. Maddock?

Maj. McCUBBIN. He resigned and went back to civil life.

Senator MCKELLAR. He went back to work for his company?

Maj. McCUBBIN. Went back to his own company.

Senator MCKELLAR. Is that your purpose when the war is over?

Maj. McCUBBIN. I do not know where I can go; whether I can go back to the same company or not.

Senator MCKELLAR. Have you any such arrangement?

Maj. McCUBBIN. No, sir; none whatever.

Senator MCKELLAR. How long did they pay your salary to?

Maj. McCUBBIN. I think they paid the half month of August, to the date of resignation. The understanding at that time was that I would be there, at most, only 60 days.

Senator MCKELLAR. Have you bought from the company with which you were connected at the time at which you went into the service since you have been in the Army?

Maj. McCUBBIN. Bought from that company?

Senator McKellar. Yes.
 Maj. McCUBBIN. Yes, sir.
 Senator McKellar. To what extent?
 Maj. McCUBBIN. I am unable to give it to you in dollars and cents, but it has been a considerable amount of money.
 Senator McKellar. Can you furnish us the exact amount?
 Maj. McCUBBIN. We are working on that list now. Col. Willcutt is having all that matter tabulated and worked up.
 Senator McKellar. Have you recently entered into considerable contracts with that company?
 Maj. McCUBBIN. No, sir.
 Senator McKellar. When was the last contract?
 Maj. McCUBBIN. We have never made any contract with them outside of that in July, when the blanket orders were made to cover 90,000 closet combinations. That company received a portion of that order; a large portion of the 90,000. If I remember right, it was—
 Senator McKellar (interposing). How much was that in money?
 Maj. McCUBBIN. I do not know. I did not figure that out.
 Senator McKellar. As a representative of the Government, do you not figure out what it costs?
 Maj. McCUBBIN. So far as my work on that end was concerned, I only compare and compile it, and that is submitted to what we call the board of review that is appointed by the general purchasing agent of Gen. Cole's division, and it is all submitted to them, the tabulation and all, for their approval. The total amount of the 90,000 was figured out, but for the different companies; what each of the different companies had was not figured. [Revised by Exhibit 2, pp. 611-612 post.]
 Senator McKellar. Did you take bids on this?
 Maj. McCUBBIN. Yes; bids were taken on those 90,000 closets and tabulated.
 Senator McKellar. Have you the bids with you?
 Maj. McCUBBIN. Not with me, but they are at the office.
 Senator McKellar. Will you make them exhibits to your testimony?
 I want the bids that were made by the companies.
 Maj. McCUBBIN. Yes, sir.
 Senator McKellar. Was this Sanitary Co. the lowest bidder?
 Maj. McCUBBIN. Five or six of them were low bidders on the entire order.
 Senator McKellar. Did they get it all?
 Maj. McCUBBIN. No, sir; they only had one part of it.
 Senator McKellar. How much of it did they get?
 Maj. McCUBBIN. They had, I imagine, roughly speaking, approximately speaking, one-third of the amount.
 Senator McKellar. What proportion of all the work has gone to this company since you have been in the employ of the Government as purchasing agent of this particular kind of material?
 Maj. McCUBBIN. Enameled ironware?
 Senator McKellar. Yes.
 Maj. McCUBBIN. I imagine, I should think, 6 per cent. Between 50 and 65 per cent.
 Senator McKellar. What other concerns have gotten any at all?
 Maj. McCUBBIN. The United States Sanitary Manufacturing Co.
 Senator McKellar. Who represents that company?
 Maj. McCUBBIN. The Washington representative, you mean?
 Senator McKellar. Yes.
 Maj. McCUBBIN. They have none here at all.
 Senator McKellar. Is not Mr. Arrott connected with it?
 Maj. McCUBBIN. Mr. Arrott is president of that.
 Senator McKellar. How much has he gotten?
 Maj. McCUBBIN. I am unable to say on that.
 Senator McKellar. Was it a large or small amount?
 Maj. McCUBBIN. In comparison, I should judge with the total ordered, it would be a small amount. Do you wish the names of some of the others on that?
 Senator McKellar. What others did you give any to?
 Maj. McCUBBIN. There was the Kohler Co., of Kohler, Wis.; the Iron City Sanitary Manufacturing Co., of Pittsburgh.
 Senator McKellar. You do not remember how much they got?
 Maj. McCUBBIN. No, sir. That is what we are working up now, to get the exact number of orders and the tabulation, and all on that.
 Senator McKellar. There is not any trouble about it, is there? Have you not got books that show it?
 Maj. McCUBBIN. No; it is just the compiling of the records, and getting them all together. Col. Willcutt's order was to go back to the beginning and get the whole information up.
 Senator McKellar. Who is the representatives of the Standard here?
 Maj. McCUBBIN. In Washington?
 Senator McKellar. Yes.
 Maj. McCUBBIN. Mr. George Herth, jr.
 Senator McKellar. What are your relations with Mr. Herth?
 Maj. McCUBBIN. No relation whatever.
 Senator McKellar. Are you good friends?
 Maj. McCUBBIN. Yes, sir.
 Senator McKellar. What is the degree of relationship, so far as friendship is concerned?
 Maj. McCUBBIN. That is all; only no more than friendship. We have known each other for a number of years.
 Senator McKellar. Do you wish to leave it that way? Because I am going to investigate it rather carefully and I do not want to mislead you at all. Are not those relations very close and intimate?
 Maj. McCUBBIN. Very friendly.
 Senator McKellar. Are they not unusually close and intimate?
 Maj. McCUBBIN. I would not think any more than some other friends I have got.
 Senator McKellar. How often do you meet?
 Maj. McCUBBIN. I see him probably three or four times a week.
 Senator McKellar. Oftener than that?
 Maj. McCUBBIN. No, sir.
 Senator McKellar. Do you take lunch with him pretty nearly every day?
 Maj. McCUBBIN. No, sir.
 Senator McKellar. Quite frequently?
 Maj. McCUBBIN. I have, until we were notified to stop.
 Senator McKellar. That is since this investigation was started?
 Maj. McCUBBIN. It was before then.
 Senator McKellar. That you were notified to stop—before this investigation began?
 Maj. McCUBBIN. No; before that.
 Senator McKellar. When were you notified before that?
 Maj. McCUBBIN. I think it has been, offhand, about six or eight weeks ago.
 Senator McKellar. Who notified you?

Maj. McCUBBIN. Col. Willcutt.
 Senator McKellar. How did he happen to notify you that your relations with this man were—
 Maj. McCUBBIN. It was not particularly to one. It was a general order that was made—that was announced to us at a general meeting that we have at the close of the week, that we were told.
 Senator McKellar. What other representative of a company had you been intimate with before that?
 Maj. McCUBBIN. I have known Mr. Cline, of the United States Sanitary Manufacturing Co., for quite a number of years, and also Mr. Arrott.
 Senator McKellar. Are your relations with either of those gentlemen intimate, like they are with Mr. Herth?
 Maj. McCUBBIN. No, sir. I do not come in contact with them.
 Senator McKellar. Is there anything about your relationship with those two that would make your commanding officer issue an order in regard to them?
 Maj. McCUBBIN. That order was for everybody. It said, "any vendors whatever"—everybody in the office, that order was issued to. I might say that I have known Mr. Herth—both of us were very close friends before either of us went with that company.
 Senator McKellar. And since you have been here with the Government that relationship has been continued, and in the purchases you have made you have given your old company most of the business, have you not?
 Maj. McCUBBIN. The only business they got, the prices were low, or they had the service or delivery of material.
 Senator McKellar. Were they always the lowest?
 Maj. McCUBBIN. If the prices were not always equal, we always found the shipment conditions better, or the location of some of the plants—
 Senator McKellar. Was that the only instance? When you found the prices of others lower, is it not true that you, having been with that company, and having been on such intimate relations with its officers, you always found that, other things being equal, there was something else?
 Maj. McCUBBIN. I did not let that interfere at all, Senator.
 Senator McKellar. If you did not, why is it that all of the other companies, who have not been getting the business, feel so very much aggrieved? You having been the representative of this company up until the day you went into the Army, and since you have been in the Army having been in the most intimate personal and official relationship with the representative of this one company, and the other companies not getting any of the business, are you surprised that they feel somewhat aggrieved that you are showing great favoritism toward your old company?
 Maj. McCUBBIN. From the information I have got I do not blame any of them for making complaint. As I understood, the representative of the Standard Co. told them that they had received a tremendous big order which they did not even have the opportunity to bid on. (Revised by Exhibit 2, p. 612, post.)
 Senator McKellar. I will now ask you about that. Did you buy for the housing contracts?
 Maj. McCUBBIN. No blanket contract order has been placed for the housing at all, except for the closet combinations.
 Senator McKellar. That is not the question I asked you. We will get along better and much faster if you will just answer my questions.
 Maj. McCUBBIN. That is what I want to do.
 Senator McKellar. I do not mean to say that you mean not to. I am going to be very frank and very direct with you in my questions, and I want your answers in the same way, and I am sure you will give them to me since it has been called to your attention.
 My question is, Are you buying for the housing?
 Maj. McCUBBIN. Yes, sir.
 Senator McKellar. Are you buying under written contracts?
 Maj. McCUBBIN. No, sir.
 Senator McKellar. Are you just placing your orders with the Standard Co. for those contracts?
 Maj. McCUBBIN. No, sir; we are placing with the others, too.
 Senator McKellar. Which ones have you placed orders with for the housing?
 Maj. McCUBBIN. With the Sanitary Manufacturing Co.
 Senator McKellar. How much?
 Maj. McCUBBIN. They made a price here about 2 weeks or 10 days ago, which put their price lower, and since then they have had all of the enameled-ware business.
 Senator McKellar. How long ago was that; when?
 Maj. McCUBBIN. About two weeks ago.
 Senator McKellar. Will you give the exact date?
 Maj. McCUBBIN. I can give you the exact date on that.
 (The witness later stated the date to be September 28, 1918.) (See Exhibit 2, p. 612, post.)
 Senator McKellar. Now, Major, I am a perfectly frank man. You remember that this examination took place on September 25, just a little more than two weeks ago. I want to ask you if the only reason that you gave this other company one order was because these gentlemen complained to our committee, and it was developed for the first time that you were placing practically all the orders with your old company, and with your friend, and that therefore this other company got that order; is that correct?
 Maj. McCUBBIN. No, sir. I can get you the exact date. Mr. Kelly and Mr. Meyers of the Iron City Sanitary Co. came to the office and called, and asked if we had placed any blanket orders, if we had covered for all of the enameledware business, and I told him no, we had not; that we did not have our requirements. He asked if it was too late for him to submit prices. I told him no, he could submit prices any time.
 Senator McKellar. Will you kindly answer this question: You and I are comparatively young men and have our lives largely before us.
 Maj. McCUBBIN. Yes, sir.
 Senator McKellar. Do you think that in passing upon the bids or quotations of these 12 or 14 enameled-ware companies that are asking for the Government business, in view of your long association with the Standard Co. and your knowledge of that company, in view of the intimate relationship that exists between you and Mr. Herth, the representative of that company, you can be absolutely fair and impartial toward all those concerns in buying for the Government? Now, just as man to man, heart to heart, is it not the very essence of human nature that you would give your own company, the company of your friend, the company that you have been employed by a long time and you know so well, the best of it? Now, is not that correct?
 Maj. McCUBBIN. No, Senator; I can not say that I let that interfere at all. It was not my intention of doing anything of that kind.

Senator McKellar. Whether it was the intention or not, you know that we naturally feel very kindly toward our own?

Maj. McCubbin. Yes.

Senator McKellar. Will you furnish the prices at which all the goods that have been bought by you from the United States Sanitary Manufacturing Co. were purchased, the names of the articles, and the prices paid?

Maj. McCubbin. That report is being made up now for Gen. Marshall to submit to you, I am pretty sure.

Senator McKellar. Gen. Marshall told you, of course, about the complaints that had been made against you?

Maj. McCubbin. Col. Willcutt told me this. I was called to Gen. Marshall's office this morning, and he told me to come up here, that you wished to see me.

Senator McKellar. Had you never talked with Gen. Marshall about it before?

Maj. McCubbin. No, sir.

Senator McKellar. It was only from Col. Willcutt?

Maj. McCubbin. Yes; Col. Willcutt.

Senator McKellar. Col. Willcutt told you that Gen. Marshall had called his attention to this testimony?

Maj. McCubbin. He said that Gen. Marshall had received word from you, I believe—I do not remember how he said that the word came to him.

Senator McKellar. Have you let any contracts since that time?

Maj. McCubbin. No, sir.

Senator McKellar. How much stuff have you got contracted up to date?

Maj. McCubbin. On contracts?

Senator McKellar. What is the extent of your contracts with the Standard Co. now?

Maj. McCubbin. The only contract we have with them is for some closet tanks and bowls.

Senator McKellar. To what extent is that?

Maj. McCubbin. I imagine that they have on hand, on a rough estimate, maybe about 10,000 bowls and probably about 10,000 or 12,000 tanks. That is the only contract that they have.

Senator McKellar. There is no question about the capacity of these concerns to furnish these goods? There was active competition, was there not?

Maj. McCubbin. Yes, competition. We have placed orders with some, Senator, and they turned them down.

Senator McKellar. Which ones turned them down?

Maj. McCubbin. The United States Sanitary Manufacturing Co., the Cahill Iron Works, and the Kohler Co.

Senator McKellar. When did the Cahill Iron Works get a contract?

Maj. McCubbin. I have got the date of that here. That order was made on July 19.

Senator McKellar. Do you not think that the Government ought to have a man buying these enameled goods who is totally disassociated from all of the various companies?

Maj. McCubbin. In purchasing, Senator, I do not see that that would have any connection at all with that.

Senator McKellar. Considering the fact that you had been the representative of the largest enameled ware company of them all, and yourself on the most intimate terms, as you have testified about, with the Washington agent of that concern, and in view of the order which Col. Willcutt has heretofore given in relation to your association with any representatives of any firms that were selling to the Government, do you not think that, looked at from the Government standpoint and not from your standpoint, a man with a knowledge of the business, but disassociated from all these supply firms, would be much better for the Government's interests?

Maj. McCubbin. I think that if I had the direct placing of the orders, or authority to place orders, that question should be brought up and changed, but I have no authority to do that.

Senator McKellar. You place the orders in the first instance.

Maj. McCubbin. Yes.

Senator McKellar. Who places them?

Maj. McCubbin. I only make the recommendations.

Senator McKellar. Has any recommendation of yours ever been turned down?

Maj. McCubbin. No, sir; I can not say that it has.

Senator McKellar. Then, if you recommend them and none of them has ever been turned down, does not that make you really the placer of the orders—give you the power to place the orders?

Maj. McCubbin. They are all furnished in the tabulation of the bids, and it goes to the board of review.

Senator McKellar. I understand that, and I am perfectly familiar with these boards of review.

Maj. McCubbin. Yes, sir.

QUARTERMASTER CORPS.

UNITED STATES SENATE,
SUBCOMMITTEE ON MILITARY AFFAIRS,
Washington, D. C., Friday, November 15, 1918.

The subcommittee met, pursuant to the call of the chairman, at 10.30 o'clock a. m., in room 248, Senate Office Building, Senator KENNETH D. MCKELLAR presiding.

Present, Senators MCKELLAR (chairman), SUTHERLAND, and JOHNSON of California.

There appeared before the committee Mr. Theodore Ahrens, president of Standard Sanitary Manufacturing Co., accompanied by Mr. Francis J. Torrance and Mr. George Herth, jr.

STATEMENT OF MR. THEODORE AHRENS, PRESIDENT OF THE STANDARD SANITARY MANUFACTURING CO.

Senator MCKELLAR. Your name is Theodore Ahrens?

Mr. AHRENS. Yes, sir.

Senator MCKELLAR. You desire to tell the committee something about the Standard Sanitary Manufacturing Co.'s contract with the Government, and if you desire you can just go ahead and say what you like.

Mr. AHRENS. I will be very glad to do that, Senator, but I would like to ask first whether you would care to tell me just generally what these charges are in which we are implicated. We have never seen any written charges of any kind. All we have heard about it is hearsay.

Senator MCKELLAR. Did you see the testimony of Maj. McCubbin?

Mr. AHRENS. No, sir.

Senator MCKELLAR. The substance of the complaint made is that Maj. McCubbin, now in the Construction Division, I believe, of the Quartermaster Corps, was formerly your employee; that he came from your office into the Army and was immediately given the position of

purchaser of plumbing supplies and enameled ware supplies, which your company is engaged in selling, and that he has since that time virtually bought the greater part of such supplies from your company; that he was constantly in company with Mr. Herth, your "agent" here, taking lunch with him virtually every day until he was directed by his superior officer not to do so; that the other 13 or 14 manufacturers of these supplies were thus frozen out of any participation in the Government's business, and that your company had access to the plans of the Government and that when quotations were asked for, Maj. Cubbins very promptly informed your company of the quotations of others, and that you thereupon gave a lower quotation in the particular instance in order to get the business, and that you had yourself boasted at a public meeting somewhere—I have forgotten where—that you had a contract of 25,000 bathtubs, and probably other paraphernalia to go with them, and that on January 1, 1919, under orders of the War Industries Board, you having the only contract with the Government, all others of your competitors would be unable to get iron for the manufacture of this enameled ware, and in that way Maj. McCubbin would put all the rest of your competitors out of business and leave you with the only good business in the country. Now, that is about the substance of the testimony, as I recall it.

Mr. AHRENS. May I just answer that in my own fashion the best way I can?

First, I admit that Maj. McCubbin—formerly Capt. McCubbin—was in our employ before he went to work for the Government. We, like other manufacturers and business concerns, were asked to submit names of our people to the Government when the Government required such men. We did not submit Mr. McCubbin's name. My partner, Mr. Torrance, recommended a man from Pittsburgh, but Mr. McCubbin's name was submitted among a number of applicants and picked out by whoever the commanding officers were that had that matter in charge. Mr. McCubbin was indorsed by Capt. Archie Maddock, his predecessor in the office, a prominent pottery manufacturer in our line, who had the position that Mr. McCubbin occupied, but who had to give it up; and he, in fact, was instrumental in having Mr. McCubbin appointed or recommended him.

As to our getting a very large part of the business that Maj. McCubbin had to place, that may be true. I do not know how much Maj. McCubbin placed, all told, or what the total volume of it is—I have no figures—but we did furnish the Government a very large quantity of plumbing materials of all kinds, and enameled ironware, brass goods, pottery, and other plumbing material that we manufacture.

The reason, Senator MCKELLAR, why we secured this business and why we got the larger part of it is contained in this sentence, that as the largest producers in our line, with a better organization and better distributing facilities, we were in a position to render the Government better service, and did so. Let me also give you this statement, that our prices were always right and in many instances lower than those of other manufacturers. Other manufacturers, in discussing Government business, have complained to us that our prices were too low. They told us this. Other manufacturers refused business—among them particularly the Cahill Iron Works, of Chattanooga, and the Standard Sanitary Co., of Pittsburgh—at prices which we were willing and glad to accept.

You know, Senator MCKELLAR, that during these strenuous times this year, when the Government and everybody working for the Government had to exert every effort in their power to get deliveries to the Government promptly, the deliveries were of great importance. Deliveries of the larger quantities of material required by the Government could be made by us and could not be made by the other manufacturers.

Now, I would like to get this point strong, because it is a vital point. The other manufacturers were utterly unable to handle the Government business, because it came in such volume and in such short time that only my company's organization was then able to handle it, and if any other man had sat in Maj. McCubbin's chair and had had these orders to give we probably would have gotten from them about as much as Maj. McCubbin gave us. To illustrate that, let me say that in the Quartermaster Corps at Jeffersonville, Ind., which he has nothing to do with at all, we have been all of this year getting as large a percentage of the business as Maj. McCubbin gave us here.

Senator MCKELLAR. That is under Col. W. S. Woods.

Mr. AHRENS. That is under whomever might be the commanding officer in charge there; and that has nothing to do with it, but our Louisville branch has sold many thousands of dollars' worth of goods to that department at Camp Taylor and elsewhere. We have been furnishing the great bulk of all the goods required.

At the nitrate powder plant at Nashville our Nashville house has furnished hundreds of thousands of dollars' worth of goods, none of which Maj. McCubbin had anything to do with.

As we came up here, Senator, Mr. Herth pointed out a large lot of buildings around here, dormitories the Government is putting up for war workers, a lot of them, and he said that we have furnished every plumbing fixture in every one of these dormitories, and Maj. McCubbin had nothing to do with it. It was purchased by the contractor through a local jobber.

One more point that I think ought to be brought out. We have been of great service to the Government. We have saved the Government many thousands of dollars in preventing the price of enamel ironware and other plumbing fixtures going beyond reasonable limits. Our books are open for your inspection; you can see that at the price we are working there is not any more than a reasonable profit.

I want to say particularly about those complaining manufacturers that we have monthly meetings, in which we meet together and discuss particular conditions, and they have repeatedly come to me and complained of the fact that the prices at which we were selling to the Government were too low, and that we ought to advance these prices. We do not think so. We can furnish you written evidence on that point that will corroborate what I say. Now, I believe I have in substance answered the complaints as near as I can do so.

Pardon me, there is just one more thing, as to this order in question that I was supposed to have been boasting about. The matter came up when I was called here to attend a meeting at Mr. Humphreys, of the building material section of the War Industries Board, at the New Willard Hotel, a meeting of manufacturers in our line. At that meeting, at which I was asked to preside, Mr. Humphreys called particular attention to the fact that the Government wanted to deal with first hands only—that is, the manufacturers—and not through jobbers or any middlemen, and that the Government had this enormous housing program in view, about 60,000, 80,000, or 100,000 houses that they might have to have for war workers, and that the

Government would have to place that directly with the manufacturer, and only with such people as could give prompt service.

After that meeting I called on Maj. McCubbin, then Capt. McCubbin, with Mr. Humphreys. I had never met McCubbin in his office before, and had only met him once here before, outside of that, since he was appointed, and I asked McCubbin whether any such housing program was in view, and McCubbin said it was. He said that his department might place an order in the very near future for anywhere from thirty to sixty thousand sets of plumbing fixtures, which would be a bathtub, a water-closet, a kitchen sink, and lavatory. That was called a set. Of course that was a very large order, and I was very anxious to get a proportionate share of it for my company. I discussed this matter at some length—probably an hour, maybe longer—and urged Maj. McCubbin to place the order at once, because in the condition that our business was in at that time, the labor supply being very uncertain and the wages advancing continually, we had in mind to advance our prices generally to everybody, including the Government, because our cost was going up all the time; but I said to Maj. McCubbin that if the Government could place an order of that size and we could get our proportion of it, that would enable us to reduce our cost, and we would have to take the order at the price ruling at that time. Figuring that there were going to be 60,000 sets of fixtures needed, I could not see that we ought to get less than half of that, because we had always, for the last five years, as the records of the trade show, done 50 per cent of this work. That is a well-known fact. Our competitors admit that and state that themselves. So that I told McCubbin that I thought that we could handle 25,000 sets of these fixtures. We got no definite order or promise from Capt. McCubbin that such an order was placed with us or would be placed with us, but the captain did say to me that he believed such an order would be placed in the near future, and that we would get our share of it; that, however, these orders would have to first be confirmed by or O. K'd by the board of review, I think he called it; in other words, that we could not consider it an order until we had a definite order in writing.

Now, I made a mistake, Senator, in going back to Pittsburgh and saying to this meeting of the manufacturers that I had such an order, as I had no order or my company had no order from the department for any such amount of fixtures at that time. We were getting business, however, every day from them. My reason for making the statement at the meeting was this, that owing to the unsettled condition of business for the last 18 months, the manufacturers had been reporting to the Secretary every month the total number of orders they received, the total number of shipments they made, and the general condition of their stocks, enough so that we would have an intelligent idea of the business of the United States in our line. Now, as to my reason for advising the other manufacturers that we had this order: As I say, I made a mistake in taking it for granted that we had this order, but I felt pretty sure from the general condition, knowing what I did about the general condition of the building in our line, that I would get that portion of the order. In fact, an order of that size could not have been filled without our support, without our taking part of it. My reason for saying and reporting on this order was that I wanted to give the other manufacturers an idea of what was coming, and I said at the meeting that the housing program that the Government had in contemplation was for about 60,000 sets of fixtures, and that Maj. McCubbin had told me he expected to distribute the order around among several manufacturers.

I also stated at the meeting, however, Senator, that we had no formal or written order, that the order would have first to go through its proper channels and be O. K'd before we would consider it an order.

Senator McKellar. Is there anything else that you wish to say?

Mr. AHRENS. No, sir; I think that covers pretty well all I would like to say.

Senator McKellar. Did you consider that Maj. McCubbin had given you this order or not?

Mr. AHRENS. I did consider—

Senator McKellar. Yes; that he had given you the order.

Mr. AHRENS. I believe, while the major—he was then Capt. McCubbin—did not definitely give me an order, that I would get an order of approximately that size; yes, sir. I felt so from the conversation.

Senator McKellar. As a matter of fact, Maj. McCubbin had given you a verbal order for it?

Mr. AHRENS. Not in so many words. That is, he explained to me that an order, to be an order, would have to first go through the regular channels and be approved by his superior officer.

Senator McKellar. Did you advance the price?

Mr. AHRENS. No, sir; we did not advance the price that was fixed.

Senator McKellar. Did you, when you told your associates in the meeting at Pittsburgh—that is where it was, at Pittsburgh?

Mr. AHRENS. Yes.

Senator McKellar (continuing). The other manufacturers—did you tell them at the same time that the prices would be advanced on these sets?

Mr. AHRENS. No, sir—on this order?

Senator McKellar. On this order.

Mr. AHRENS. No, sir. I told them that we expected to take that order at the prices then ruling.

Senator McKellar. It is claimed that after securing this alleged verbal contract your company advanced the price to the Government and informally told the other manufacturers that this price would be advanced, and you would later give the other manufacturers a memorandum of the new prices. Did you do that?

Mr. AHRENS. We did not advance our prices to the Government.

Senator McKellar. Did you give the other manufacturers a memorandum of these new prices?

Mr. AHRENS. I could not answer that; no, sir. I did not know.

Senator McKellar. Did you have a memorandum yourself?

Mr. AHRENS. Personally; no, sir.

Senator McKellar. Then do you not know whether a memorandum of the new prices was given them or not?

Mr. AHRENS. Whether a memorandum of the new prices we proposed to make to the Government was given them?

Senator McKellar. Yes.

Mr. AHRENS. Whether that was given to them or not?

Senator McKellar. Yes.

Mr. AHRENS. I could not answer; no, sir.

Senator McKellar. As a matter of fact, have you seen such a memorandum as that?

Mr. AHRENS. Personally, no, sir.

Senator McKellar. Do you know whether such a memorandum was in fact prepared?

Mr. AHRENS. No, sir; I could not say. But, Senator, I would like to say again that we did discuss at that time the question of advancing prices and—

Senator McKellar. Well, it was entirely up to you as to whether or not the prices would be advanced? Maj. McCubbin just simply agreed to any price that you made, did he not?

Mr. AHRENS. No, sir; my understanding was that Maj. McCubbin got prices from enameled ware manufacturers—different manufacturers—and if our price was right we got our share of the business.

Senator McKellar. I will ask you whether or not Maj. McCubbin told you that he expected to turn over all this business to you?

Mr. AHRENS. He emphatically did not. He emphatically did not, Senator. Maj. McCubbin told me that on this large order in question he expected to split it up between several manufacturers. I never made a statement at the meeting that we had taken an order for 25,000 sets of plumbing fixtures.

Senator McKellar. What did you state at that meeting?

Mr. AHRENS. I said that we had an order from the Government for a very large quantity of plumbing fixtures for that housing proposition.

Senator McKellar. That you had a contract for a very large quantity?

Mr. AHRENS. Yes; or words to that effect.

Senator McKellar. All right, sir.

Mr. AHRENS. And I want to repeat, Senator, that I made a mistake in stating that we had an order before we had a real order—a written order.

Senator McKellar. When was that?

Mr. AHRENS. Well, I am somewhat shy on dates.

Senator McKellar. August or September?

Mr. AHRENS. Can you supply the date, Mr. Herth?

Mr. HERTH. The date of the meeting at the Willard Hotel that Mr. Humphreys held was August 27, so that it must have been after that. I think you left Washington on the 28th.

Senator McKellar. It was probably about a week later?

Mr. AHRENS. Probably September 5.

Mr. HERTH. It must have been in September, some time.

Senator McKellar. At that time you did not have this contract?

Mr. AHRENS. No, sir.

Senator McKellar. You never entered into a contract after that time for these bathtubs and sets?

Mr. AHRENS. No, sir; we never received any such contract.

Senator McKellar. Now, you have testified exactly to the contrary about that, have you not?

Mr. AHRENS. Contrary? What is contrary to that?

Senator McKellar. I now call your attention to a photographic reproduction of an affidavit, apparently made by you and sworn to by you on the 25th day of September, 1918, and I will get you to see whether that is a photographic copy of your affidavit and signature.

Mr. AHRENS (after examination of paper). Yes, sir.

Senator McKellar. Now, if you will look at that, you will find where you distinctly state that you have a contract for 25,000 enameled bathtubs, 25,000 enameled roll rim sinks, 25,000 enameled washstands, and you have just testified that you did not have such a contract?

Mr. AHRENS. Senator, I believed at the time I signed that affidavit that I did have it, or that the order would be ours in a few days. Now, might I say here that we have had similar transactions with the Government. For instance, we have a shell contract with the Government on which we did not receive any order—that is, any formal contract—for months after we started on it; but we went ahead on it.

Senator McKellar. Then you are unavoidably driven to this conclusion, are you not, that the only way on earth in which this affidavit could be explained, in view of your present testimony, is that you were so absolutely sure that Maj. McCubbin would do whatever he was told to do in reference to letting these contracts that you considered it as made?

Mr. AHRENS. I felt so certain at the time that I signed that affidavit that the order would be placed—that the housing order would be placed—and that we would get that portion of it that I took that for granted. It was a mistake on my part and a mistake that I regret very much.

Senator McKellar. Why was this affidavit given?

Mr. AHRENS. This was gotten up for the purpose of enabling some of our people whom we wanted to retain in the company—in the manufacturing end of our business—to claim exemption from military duty.

Senator McKellar. Did you get exemptions for them on the faith of this affidavit?

Mr. AHRENS. I do not think so. I do not know that it was used.

Senator McKellar. Were any of them released?

Mr. AHRENS. It may have been used, but I do not know that any of our people ever obtained releases on that.

Senator McKellar. However, it was filed with the Provost Marshal General's office for that purpose, was it not?

Mr. AHRENS. It may have been in some instances. I am not certain; but I do not know that it was used to any extent. But it was made for that purpose—that is, it was gotten up for that purpose.

Senator McKellar. If you had been given a contract for these plumbing fixtures, consisting of bathtubs and sinks and water-closets and lavatories, and none of the others, none of the competitors, had been given any such contracts, or any Government contracts at all, under the priority orders of the War Industries Board permitting iron to be used for this purpose only by those who had Government contracts, that would have put all other enameled-ware manufactures out of business, would it not?

Mr. AHRENS. No, sir; not as I understand it. It would not have put them out at all.

Senator McKellar. How could they have gotten the iron?

Mr. AHRENS. There were lots of other Government departments purchasing these same supplies; and the other manufacturers have not been put out of business at all, Senator. The best evidence of that is that for all of this year and during all the period when we supplied to the Government a considerable quantity of plumbing material, these other manufacturers obtained a proportionately large share, just as large a share, of business from the rest of the United States.

Senator McKellar. Now, let us see if that is correct or not. I have before me here a statement of the shares of this particular business, which shows that the Standard Sanitary Manufacturing Co.—is that your company?

Mr. AHRENS. Yes, sir.

Senator McKELLAR. Was given \$387,311.92; the United States Sanitary Manufacturing Co. was given \$20,353.78; the Kohler Co. was given \$9,311.30; the J. A. Mott Iron Works, \$15,326.36.

This would indicate that, in round numbers, your concern got \$387,000 worth of this particular business and all the other concerns together got \$44,000 worth. In other words, your concern got about 90 per cent, just speaking roughly, under the control of Maj. McCubbin, who had been in your employ and who was, as shown by his own testimony, and has been, so closely connected with your company since he has been in the employ of the Government. Can you wonder that under those circumstances, when these other gentlemen were confronted with the priority order under which your company would be allowed to get iron for your needs because you had Government contracts secured in this way, and where they could not get iron because they had no Government contracts—can you wonder that they felt in very great fear that their business was going to be absolutely ruined and taken away from them, and that through this means of Government procedure, carried on by Maj. McCubbin, who had been in your employ, your business would be built up at the expense of theirs? Now, can you wonder that they complained? Just look at it as man to man.

Mr. AHRENS. Yes, Senator, if those were the whole facts in the case you would be absolutely right, but they are not. The business placed by Maj. McCubbin was only a small part of the business that was being placed at that time. My answer to your question is that the other manufacturers during this same period have sold more ware than we sold to the Government. In other words, they got their full proportion of the business; and, what is more, and I think this should have some weight, they got it at better prices than we were getting from the Government.

Senator McKELLAR. What profit did your concern make? What is your capital and what profits have you made on your capital within the last year?

Mr. AHRENS. Why, our capital is about \$17,000,000; \$16,000,000 in round numbers on the 1st of January, I think you had better say, and on that we showed about \$2,225,000 profit, net, last year.

Senator McKELLAR. How much will it show this year?

Mr. AHRENS. Our profits this year, counting in our entire business, will show probably a half a million dollars more than that.

Senator McKELLAR. What was the amount of orders; at what price were these 25,000 sets of plumbing fixtures sold? Speaking roughly, what was the cost of them, each?

Mr. AHRENS. Can you supply that, Mr. Herth?

Mr. HERTH. The price on bathtubs at that time, as near as I can recall, was \$19.25.

Senator McKELLAR. And the other three items, how much were they?

Mr. AHRENS. Pardon me, Senator, may I interrupt you just a minute?

Senator McKELLAR. Yes.

Mr. AHRENS. I said there were four items, but the water-closet was not to be considered. There are really only three features. These are enameled iron fixtures.

Senator McKELLAR. The bathtub is \$19.25?

Mr. HERTH. I could not state exactly, Senator.

Senator McKELLAR. Approximately?

Mr. HERTH. The lavatory was around \$7; approximately \$7. We had a price on one at \$6.65, or it might have been \$7.04.

Senator McKELLAR. What is that?

Mr. HERTH. That is the lavatory. Then the sink, I think, was approximately \$9; \$9.25 or \$8.75.

Mr. AHRENS. Altogether, about \$34.

Senator McKELLAR. About \$34?

Mr. AHRENS. Yes; and it would be twenty-five times \$34 for the contract. That would be about right; \$850,000, I think.

Senator McKELLAR (after making calculation). That would be about \$850,000?

Mr. AHRENS. May I say one word more there, Senator?

Senator McKELLAR. Certainly.

Mr. AHRENS. The largest order we received from the Government was not through Capt. McCubbin, but through his predecessor.

Senator McKELLAR. Who was he?

Mr. AHRENS. Capt. Maddock.

Senator McKELLAR. Did he ever work for you?

Mr. AHRENS. No; he was a prominent manufacturer in Trenton, N. J., and he is a competitor of ours, Senator, and he placed that order with us because we know that he could give service, and service was of paramount importance at that time.

Senator McKELLAR. What average profit did you make on these goods?

Mr. AHRENS. We never took this order, or it was never filled—do you mean what average do we make on the enameled ware we sell?

Senator McKELLAR. Yes; to the Government.

Mr. AHRENS. About 15 per cent; possibly 20 per cent; not over that. But in saying that we should bear in mind the fact that we have got to pay income taxes and excess-profit taxes out of that, and a very large share of it goes back to the Government.

Senator McKELLAR. There never has been a contract made about these plumbing fixtures, has there?

Mr. AHRENS. No, sir.

Senator McKELLAR. Have any of them been actually bought from you?

Mr. AHRENS. Have what?

Senator McKELLAR. Have any of them been actually bought from you by piecemeal?

Mr. AHRENS. We have, no doubt, since that time furnished similar goods to the Government. Mr. Herth can answer that better than I can.

Senator McKELLAR. Mr. Herth, will you just be sworn, please, sir?

(Mr. George Herth was here sworn by the chairman.)

Senator McKELLAR. Will you state whether or not you have sold to the Government any of these goods through Maj. McCubbin—any of these 25,000 sets?

Mr. HERTH. You mean, that applied on the contracts we have?

Senator McKELLAR. It does not make any difference whether they applied on those contracts.

Mr. HERTH. Oh, yes; we have sold some fixtures to the Government.

Senator McKELLAR. How many?

Mr. HERTH. I could not tell you that.

Senator McKELLAR. Can you give an approximation as to how many?

Mr. HERTH. Oh, yes; we have sold some; there is no question about it, we have sold them some. The question is this, how many of these fixtures were bought after all this controversy. That is the idea, is it not?

Senator McKELLAR. Yes; in other words, it is charged, with how much truth I do not know, that when Maj. McCubbin found that he could not hand the entire contract of 25,000 sets of fixtures for plumbing, he then proceeded to buy as many as he could by piecemeal from your firm, without giving the other people any chance to bid on them at all.

Mr. HERTH. Yes; I will be very glad to give you the number of fixtures.

Senator McKELLAR. Yes. Now, do you know whether or not you have had any written request for quotations about that since the 25th of September?

Mr. HERTH. Have we got any written quotations on our different lines of fixtures?

Senator McKELLAR. No; have you received any written communications asking for quotations on these bathtubs and fixtures?

Mr. HERTH. We receive almost every day requests from the Construction Division for prices on all those fixtures—any fixtures that the Government may want.

Senator McKELLAR. Mr. Ahrens, would it be very much trouble to get a detailed statement, I do not mean of all the articles, but just a statement of the amount and nature of goods, of what you have sold the Government since the war began?

Mr. AHRENS. I will be glad to get that for you.

Senator McKELLAR. Of all sales?

Mr. AHRENS. Yes, sir; I will be very glad to.

Senator McKELLAR. I would like it in compact form, if you can get it.

Mr. AHRENS. There will be no trouble about that. We can get you here in 24 hours a statement of all the goods and the business we have done with the Government in its various departments, you mean?

Senator McKELLAR. In various departments.

Mr. AHRENS. Since the war began?

Senator McKELLAR. Yes.

Mr. AHRENS. Yes, sir.

Senator McKELLAR. This question was raised: It is claimed that Maj. McCubbin would buy under very peculiar circumstances from you. For instance, the Cahill Co., of Chattanooga, complained that when it was wanted to buy some of these goods for use at Camp Greenleaf or out at Fort Oglethorpe, and they wanted them in a hurry, he did not ask for any bids or quotations or prices from the Cahill Iron Co., but he put these emergency orders with your company and had you send them by express, taxing the railroads to bring them into Chattanooga, when they already had the same material there, and costing the Government a large expressage. Do you know whether that is correct or not?

Mr. AHRENS. I can not answer that because I do not know, of course, what the Government did or did not. Perhaps Mr. Herth could give some information on that point.

Senator McKELLAR. All right; Mr. Herth, do you know?

Mr. HERTH. I think that is up to the others to show you. I do not know; of course we have shipped material to different places by express and by freight. I know of one case out at Camp Lewis where we had received an order, and the contractor wired us to ship it by express. That meant a whole car. I took that up with the department, and I wanted to know whether we should do it. We did not do that. So I could not say as to any particular order at Camp Oglethorpe, that might have gone by express there.

Senator McKELLAR. Could you look it up on your books?

Mr. HERTH. And find out just what we shipped there?

Senator McKELLAR. Yes; and when you get that information make it Exhibit 2 with this testimony.

Mr. HERTH. Yes, sir.

Senator McKELLAR. Have you any agreement with McCubbin that he is to return to your employ when the war is over?

Mr. AHRENS. No, sir; excepting that there are some six hundred odd men that left our employ, a large per cent of our force, and went into the Government service, and we have said to every man of them, "When the war is over we are going to try to put you back right in the place you were in." We did not make a definite promise, because that would be impossible, but we said, "Every man that leaves our employ and goes into the Government service and comes back after the war, we are going to try to find a job for you." Therefore, to that extent, I would say that Maj. McCubbin had that promise.

Mr. HERTH. But you did not make that promise only to him. You never made that promise to any individual?

Mr. AHRENS. Oh, no; absolutely not.

Senator McKELLAR. Have you any other employees in the purchasing departments of the Government? Are there any at Jeffersonville, for instance?

Mr. AHRENS. Where?

Senator McKELLAR. Have you any at Jeffersonville?

Mr. AHRENS. I do not know. I can not answer that question. And again, I will have to say that, for instance, at Camp Taylor, when the camp went up and they were working 24 hours a day, and day and night, and everybody was working as hard as they could, the people in the clerical departments there were overrun with work, and they did telephone down to our Main Street store, and they asked, "Can you give us a clerk? Your people know about these prices and discounts, and are familiar with the business, and can you help us?" We furnished such a man to them. I do not know whether we furnished such a man in Jeffersonville, but if we were called on to do so we did so, because we would think it was our duty to do so.

Senator McKELLAR. Now, again returning to the other feature of the same kind, where you had men working in various departments, the purchasing supply departments of the Government using your goods, and they did not have men on the inside in that way, do you think that your competitors would feel that they would naturally get a square deal on the whole circumstances?

Mr. AHRENS. Yes, sir. My point is that when Capt. McCubbin or any other man in our company left our employ and went into the employ of the Government, he was no longer in the employ of the company, nor did we ask him in any way, shape, or form to prefer us over anybody else; nor have we in any way, directly or indirectly, told these people that we were going to take care of them or do something for them because of the fact that they were in the Government employ and had helped us to get business; absolutely nothing of that kind.

Senator McKELLAR. Now, would you give me a statement, and make it Exhibit No. 3 with your testimony, of any of your former employees who were employed by the Government or were loaned by you to the Government at any of these camps or depots where supplies were being handled?

Mr. AHRENS. Yes, sir. It is quite possible that two or three people were furnished in that way; but might I say right there, Senator, that

for a very responsible position in the construction department here, a position under Maj. Humphreys.

Mr. HERTH. And Maj. Sergeant.

Mr. AHRENS (continuing). And Maj. Sergeant, covering the entire plumbing field of the United States, they wanted a man to take charge of that, a man who had technical knowledge of the business and who could be Maj. Sergeant's right arm; and the jobbers and manufacturers of the Eastern Supply Association, representing all the prominent people in our business, came to us and asked us, as a patriotic duty to the Government, to allow one of our men, Mr. J. D. Tschopick, who was our general manager of furnishing housing, to accept that position, you see with the indorsement of all these men and including our competitors, and it was to be a dollar-a-year job; and we sent Mr. Tschopick on to see Mr. Sergeant. We told him that if it was necessary to give him up we would be willing to do so. We sent him on to see Mr. Sergeant and he convinced himself that the position was not one in which he could render the kind of service that the Government would expect from a man of his importance, but that it would require a man of lesser importance, and he declined the job; and subsequently some one else was appointed to the position, who now fills it, some one not connected with my company.

Senator McKELLAR. I will ask you to make this photographic copy of an affidavit made by you, which you have identified, dated September 25, Exhibit No. 4 to your deposition.

Mr. AHRENS. I do; yes.

Senator McKELLAR. I must go to the Senate now, and I must ask you gentlemen to excuse me, but I will let you know later in the day when we can continue with your testimony, either this evening or to-morrow morning.

(Thereupon, at 11:45 o'clock a. m., the subcommittee adjourned, subject to the call of the chairman.)

QUARTERMASTER CORPS.

UNITED STATES SENATE,
SUBCOMMITTEE ON MILITARY AFFAIRS,
Washington, D. C., Saturday, November 18, 1918.

The subcommittee met, pursuant to the call of the chairman, at 10 o'clock a. m., in room 248, Senate Office Building, Senator KENNETH D. McKELLAR presiding.

Present, Senators McKELLAR (chairman), SUTHERLAND, and JOHNSON of California.

There appeared before the committee Mr. Theodore Ahrens, president of Standard Sanitary Manufacturing Co., accompanied by Mr. Francis J. Torrance and Mr. George Herth, jr.

STATEMENT OF MR. THEODORE AHRENS—RESUMED.

Senator McKELLAR. Proceed, Mr. Ahrens.

Mr. AHRENS. I do not remember exactly, but I think we were discussing, when the committee adjourned yesterday, the reason why I thought I had an order for 25,000 of these sets.

Senator McKELLAR. Yes; I think so. That is all right. Go on.

Mr. AHRENS. Let me say that when I testified yesterday I did so without having read the charges against Maj. McCubbin and ourselves. I did not know that we were in what is called an open hearing, a public hearing, and we were entitled to have a copy of the testimony; but Mr. Johnson, the official stenographer, told us just after the adjournment yesterday, and stated that we could have a copy of the testimony furnished to us, and we asked him to prepare a copy and let us have it. He did so, and we received it late last night. Now, I wanted to make that statement preliminary to this other.

Senator McKELLAR. Yes; you could have had a copy of the testimony at any time, of course.

Mr. AHRENS. Now, Senator, I would like to add this to what I said yesterday before you adjourned the hearing. In regard to the interview I had with Maj. McCubbin, and during which we discussed the large housing contracts the Government proposed to place, or had in mind to place, with the manufacturers, my testimony as given yesterday is correct, but I would like to add that after going into the subject thoroughly with Maj. McCubbin and after calling in Maj. Noss, who was consulted on the length of time it would take to put the orders through the department, I left Maj. McCubbin's office with the impression that he would recommend to his superior officers the placing of a large order for plumbing fixtures required for the housing program, which was estimated at about 60,000 sets, and would give us an order for 25,000 sets of these fixtures. The major asked us whether we could make deliveries of this quantity by the end of the year, and I told him we could.

Senator McKELLAR. Mr. Ahrens, since this investigation has begun you have received a letter from Maj. McCubbin asking you to deny that you had a contract with him, have you not?

Mr. AHRENS. He asked me to write a letter to the Enamelled Ware Manufacturers' Association, denying that we had such a contract.

Senator McKELLAR. Have you a copy of that letter of Maj. McCubbin to you?

Mr. AHRENS. No, sir; I have not; but it is on file in the Pittsburgh office.

Senator McKELLAR. Will you furnish a copy of that letter and make it Exhibit No. 5 with your testimony?

Mr. AHRENS. Yes, sir.

Senator McKELLAR. Do you remember the contents of the letter—the substance?

Mr. AHRENS. The substance of it was that Maj. McCubbin called my attention to the fact that I had made such a statement at a meeting of the Manufacturers' Association, and he wanted me to retract it, as he had not given me any such contract. That is as near as I remember it. I did not answer that letter, or I did not write the letter that he wanted me to write to the association, because it was not an association matter; that is, the matter never came up in the association meeting. It came up in an informal meeting or discussion that we had after the adjournment of the association meeting, at which I made this statement that we had this order. Therefore I did not think it was necessary or proper for me to write to the association about it or drag them into it.

Senator McKELLAR. With reference to the affidavit about the order for 25,000 sets of plumbing fixtures, did you not get a priority order for coal on account of that affidavit?

Mr. AHRENS. We asked for a priority order for coal, based on the Government contracts we had, and we did include that order among the rest, Senator.

Senator McKELLAR. Yes. When was that priority given?

Mr. AHRENS. Shortly after this whole matter occurred. I do not recall the exact date, but it was before I made up my mind that we would get these contracts or this order.

Senator McKELLAR. It was after the 25th of September, was it not, and after this hearing had begun and Maj. McCubbin had then been before our committee?

Mr. AHRENS. I could not say that, because I do not know when you had the hearing, and I never talked to any of the officers that were connected with this case or with any of the other manufacturers, until recently, and the only talk I had with any manufacturer connected with the case was with Mr. Caldwell the day before I saw you in Memphis, when I talked to him over the long-distance wire. May I make a statement here, Senator?

Senator McKELLAR. Yes; I would be delighted to have you make any statement you wish.

Mr. AHRENS. What I wanted to say, Senator, was that we have received during this year a number of large orders from the Government, and which we considered orders, before we had the formal contracts. Our first shell contract, amounting to about \$1,500,000, was given us practically on the same basis; that is, we went ahead and ordered \$400,000 worth of machinery before we had that contract. In fact, we did not get the contract for three months after we had begun operations and after we had invested of our own money approximately \$400,000 for machinery. But we had the assurance from the officers of the Ordnance Department that the order was going through in good shape, they gave us an order number, or something like that, and told us not to be uneasy about it, and we went on and spent \$400,000 of our own money preparing for that contract three months before it was executed.

Senator, this year was a year of big things, and they were done in unusual ways. This order, while it looked big, was not, in proportion to many other orders that were handled and placed by the Government in the various lines.

Senator McKELLAR. Without expressing any opinion, but merely giving you my version, it seems to me that your man McCubbin has misled you into a very serious situation. I gather from what you have said, and what he said and what all have said that appears in this record, that you had every reason for believing that you had a contract; and yet when this investigation came up, knowing that he had been simply acting as your agent, he has besought you and others to protect him by making statements, and statements that are going to get somebody into a very serious situation. In other words, he has gotten you and he has gotten a half dozen other officers here to assure me or to assure this committee that you had no contract, and that is exactly what you have testified to and that is exactly what these other men have testified to, when, as a matter of fact Maj. McCubbin in my judgment—I am not expressing it as my final judgment at all—appears to me to be conscious that he has done wrong himself, and in trying to protect himself he has gotten all you gentlemen in a very remarkable situation. You are in the attitude of having sworn to one state of facts on the 25th of September and another state of facts on the 15th of November, which is, I must say, a very serious thing, and all because of this system to which I have been opposed from the very beginning, of having men interested in the business buying for the Government. It is all wrong; absolutely wrong.

You ought to take your chances before a fair and impartial purchasing officer, a man who has no connection with your business, and the department is all wrong in permitting a man from your office to buy goods from you; and I would say, and it would not make any difference who it was, that if an officer was selected from one of these other concerns, your competitors, to do that, it would be perfectly outrageous, unfair, and unjust to you, just as this is unfair and unjust to them. It is a system that can not be defended. I know that Gen. Marshall is a splendid man, and I can not understand how he permits Maj. McCubbin to be in the employ of the Government for 10 minutes after this is disclosed. It is a matter that I had hoped that Gen. Marshall would remedy promptly by suggesting the dismissal of Maj. McCubbin from the service of the Government. He should not be in the service of the Government. It is indefensible that he should be in the service of the Government; and I say this after having heard all the proof—that is, all that has occurred up to this date—and I think practically all the facts are in. He has gone officially and gotten up a very elaborate statement here, and ex parte statements here from witnesses, Maj. Noss and others, that do not agree with the facts in the case at all, and I am surprised to find that anything like that should be done. It is not warranted by the facts and it is not fair to the Government at all, and it is not fair to these other people—not a bit—and as a matter of fact I am rather inclined to think it is unfair to you, because you believed that you had a contract, and have not got one.

Mr. AHRENS. Senator, I did that honestly; yes, sir. I must say, however, in justification of Maj. McCubbin, that I think I am to blame in the matter in simply having talked about having the contract before I had it. Let me put this feature before you, please. I certainly had no business talking to my competitors about having a contract simply, as somebody said yesterday, to boast about it, because that would not do me any good and would only cause bad blood.

Now, my reason for making that statement and telling these other gentlemen that we had such a contract—please remember that I qualified that at once by saying that we had no actual order; no written or formal order—but my reason for advising them of it was because for the last two years, or since the Government has been in this war, we have been cooperating together very closely in every way in order to keep this industry from going on the rocks; and I felt it my duty to advise these other manufacturers that a very large order, a much larger order than was promised me, would be placed, and that they were to receive, or some of them were to receive, the balance of it. Now, that was my reason for making that statement at that time. They, however, took it in another way.

Senator McKELLAR. Now, the trouble about that is that the very first time that the 60,000 has ever been brought forward has been in your testimony. It has never been mentioned heretofore. The number mentioned has always been 25,000, and Maj. McCubbin has never said anything about 60,000 at all, and he certainly ought to have known something about it if he knew anything about the business at all. In the next place, these gentlemen, none of them, understood that there was anything but the 25,000-set order; and in the next place—

Mr. AHRENS. Pardon me, Senator—

Senator McKELLAR. Just one moment.

Mr. AHRENS. Yes, sir.

Senator McKELLAR. In the next place, under the priority order, they would have all gone out of business and you would have had an entire monopoly.

Mr. AHRENS. I have a little information on that point that I would like to give you.

Senator McKELLAR. Those are the things that make this situation absolutely intolerable, and it just shows that the department was all wrong in employing a man out of your office to buy goods from you for the Government. That is absolutely indefensible. The Lord Jesus Christ 2,000 years ago said that no man could serve two masters, and no man can. No man can serve the Government and serve you, too. It is absolutely impossible.

Mr. AHRENS. That same thing happened in a hundred offices, Senator. Senator McKELLAR. Yes; and it is indefensible, wherever it has been done.

Mr. HERTH. They had to do that because they had to go out into the firms in these different lines in order to get somebody who knew about these things.

Senator McKELLAR. No; the people have gone out, in these different lines, to put these men on the Government, and greatly to the discredit of the Government and to the injury of the Government in securing contracts this way. It is indefensible—absolutely indefensible. I say that with all respect to you, because I think that you have put yourself, by reason of the signing of that affidavit, into an indefensible position, and perhaps into one which you are not entitled to be in, and you have been put in this position by a system that ought not to be tolerated for a moment, and I do not see how any superior officer of Maj. McCubbin can permit him to be in the Army for a moment. He ought to be discharged, and discharged instantly. He ought to have been discharged when this matter was first brought up.

It is a crime against the Government to let a man of that sort, who permits himself to be used in that way, to stay in the employ of the Government; and of course if the War Department can not do it, I am going to see that it is done by publicity. Publicity is the best thing, in this country anyway. I feel outraged at this action on the part of the department and on the part of this whole situation. I speak very plainly. I am a very plain-spoken man. Perhaps I have said here on this record what I ought not to have said. Perhaps I ought to have let the Department of Justice handle this matter in its own way. But, being familiar with it, I feel that you have permitted this young major in the Army, who has been indulging in practices that no man should have indulged in, to put you in the most awkward attitude that you have ever been in in your life, as you will certainly find out. It is an indefensible attitude, and really one that grows out of the course of business that ought not ever to have been tolerated. I may have said more than I ought to, but it is as much in your favor as it is against you. That is the situation. I do not wish you to be unaware of it, because the fact is that you have testified twice—

Mr. AHRENS. I am fully aware of it.

Senator McKELLAR. (continuing). And in one case your testimony is opposed to your testimony in the other case.

Mr. AHRENS. Yes, sir.

Senator McKELLAR. And I am really inclined to think that you are not entitled to be in that position.

Now, if there is anything else that you wish to say, I will be glad to hear it.

Mr. AHRENS. I would like to correct some statements here that we discussed yesterday.

Senator McKELLAR. I will be glad to have you put in anything you wish. I want to be absolutely fair about the matter.

Mr. AHRENS. I never had this testimony of Maj. McCubbin and these others until last night. I went through it late last night, and these are points I would like to bring to your attention.

Senator McKELLAR. Surely.

Mr. AHRENS. First, the statement of C. F. Arrott (p. 389 of transcript) and the statement of "Certain manufacturers" (p. 398).

On page 389 you asked this question:

"Senator McKELLAR. If the Government business is confined alone to the Standard Co., what effect would that have on the various other companies engaged in this business, in view of this order?"

To that Mr. Arrott answered:

"Mr. Arrott. We will have to close our plants down, or turn our plants into making shells or some other Government essential work."

Senator McKELLAR. Yes, sir; you want to comment on that?

Mr. AHRENS. I want to comment on two cases that I am going to cite. I will read now an extract from the "Statement of certain manufacturers," which is appended to the hearing of September 25, 1918, as follows:

"With the further restrictions recently made by the War Industries Board covering expenses for general building improvements and repairs, the present market for sanitary enameled ware is virtually confined to the Government's requirements; and to meet these ultimate requirements, were the business equitably distributed, all of the plants producing enameled ware would be permitted to live."

Now, on that I want to say that these statements are contradicted by the fact that the other manufacturers of enameled ware have, in the first nine months of 1918, sold \$4,731,067.69, or 45 per cent, fully 45 per cent, of the enameled-iron ware disposed of in the United States, Government business included. The total amount of enameled ware purchased by Maj. McCubbin from the Standard Sanitary Manufacturing Co. was less than \$400,000, being therefore less than 7 per cent of the Standard Sanitary Manufacturing Co.'s sales of enameled ware, and less than 4 per cent of the total business of the country. Our own sales of enameled ware for the same period were \$5,385,286.51. This makes a total business of enameled-iron ware in the United States for those nine months of \$10,506,354.20. These figures are taken from the reports that we all furnished the secretary of the association, and can be verified. I mention them here to show that after all the amount of business Maj. McCubbin gave us was insignificant compared to the total business of the country, and that these other manufacturers got millions of dollars' worth of business outside of Maj. McCubbin's office.

Senator McKELLAR. But the question that they raise in that testimony is that after January 1, 1919, if the war had continued, you would have been the only man with priority orders, and they would have had to have closed down their businesses, and you would have had the entire enameled-iron-ware business of the country; and I am inclined to think that if Maj. McCubbin had had his way that would have been mighty near the situation.

Mr. AHRENS. Senator, that is not the situation.

Senator McKELLAR. And that is an indefensible situation, of having an employee in the Army in that position.

Mr. AHRENS. I agree that that would be indefensible, but that is not the situation. All these manufacturers sold many hundreds of thousands of dollars' worth of enameled ware for Government purposes through other channels. That is the point I am trying to bring out.

Mr. NUGENT. I will ask the Senator from Tennessee if, after his recital, he does not think a lot of these people should

be in the penitentiary instead of longer serving as agents of the Government.

Mr. McKELLAR. I will give the Senator my view about it. I recommended that these men be discharged from the service of the Government just after this proof was taken, and my recommendation was ignored by the War Department. There was not any question in my mind as to what ought to be done with them. I do not think we ought to turn these contracts over to them to settle. I think if we do we will be derelict in our duty, and I, for one, will not do it if I know it. I feel that it is my duty to bring this testimony before the Senate and before the public when passing upon these contracts, and, Senators, it is our duty as representatives of the Government to see to it that the Government is treated fairly and right in the validation of its contracts and in our settlement in regard to them.

I believe that is all I have to say.

Mr. POMERENE. I wish to ask the Senator a question.

Mr. McKELLAR. I was going to yield the floor, but I will be delighted to answer any question.

Mr. POMERENE. The Senator has given a great deal of attention to this matter.

Mr. McKELLAR. I want to say that it is a pretty thankless job, too. I have given great attention to it, but a man gets criticism for it. Any man who defends the interest of the Government now is always criticized for it.

Mr. POMERENE. I mean the legislation now pending rather than the particular contracts to which the Senator refers. Is there anything in either of the bills now pending before the Senate which will protect the interests of the subcontractors?

Mr. McKELLAR. No; there is not.

Mr. POMERENE. I have submitted an amendment which will be printed in the Record in the morning that will take care of the interests of subcontractors.

Mr. McKELLAR. I think that is a very wise provision. I do not see that the Government has any possible contractual relation, as I understand it, with a subcontractor. It is a difficult provision.

Mr. POMERENE. That is entirely true, but this is my thought about it: If A has a contract with the Government, known as the head contractor, as we call them in Ohio, or in some places the prime contractor—

Mr. McKELLAR. Subcontractors they are called everywhere.

Mr. POMERENE. I am speaking of the head contractor, and he sublets to half a dozen other men.

Mr. McKELLAR. Which is always done.

Mr. POMERENE. They furnish their product to the head contractor for the Government. It seems to me that any money which goes to the head contractor for that product ought to be reserved for the benefit of the subcontractor who contributed toward the execution of the contract with the Government; in other words, that the money which the head contractor gets from the Government should not go to the general creditors of the head contractor at the expense of the subcontractor.

Mr. McKELLAR. I will say to the Senator that I think there is a great deal of merit in his contention, and there is but one way in which it can be effectuated, and that is to put the whole matter in the hands of an independent commission, because the War Department is under no obligation to consider subcontractors. All that is settled by the War Department in these contracts. I do not see how you are going to enforce that obligation upon the department. Many of them have already been settled; but if you will put it in the hands of an independent commission and require the commission to adjust the claims of subcontractors, there is no reason in the world why it can not be done, and I will join the Senator in that.

Mr. POMERENE. There is nothing in the amendment which will be inconsistent with the provisions of either bill, as I understand them.

Mr. McKELLAR. That can be worked out. I will look at it when it is printed, and we will see what can be done.

Mr. FLETCHER. Mr. President, of course, what the Senator from Tennessee has been discussing with respect to leaving to the department the absolute right to adjust these matters is scarcely pertinent to the matter before the Senate, because the House bill is not the bill before the Senate.

Mr. McKELLAR. It is the only bill that is before the Senate, I will say to the Senator. These other measures are amendments to it, and if the matter of protecting the Government is not pertinent, then I am utterly unable to understand what is pertinent.

Mr. FLETCHER. Of course, I understand that perfectly well, but the Senator has been arguing all the afternoon that there ought to be a commission, and there is not any proposal here that there should not be a commission. The substitute offered to the House bill provides for a commission, and the

bill reported by the Senator from Nebraska [Mr. HITCHCOCK] provides for a commission. So we are not confronted with anybody proposing that this matter should be left entirely to the War Department. That is the point I make on that score.

Mr. McKELLAR. Of course, I have explained that fully. The difference is that under the Chamberlain substitute the commission is merely an appeal commission, and you can not get anything before it except by appeal. Under the Hitchcock amendment the commission has full and plenary powers to do justice to all.

Mr. FLETCHER. I understand the difference, but I did not understand that the Senator really expressed much preference one way or the other, just so there was a provision for a commission that took it at some stage of the proceedings out of the hands of the War Department having the entire charge.

Mr. McKELLAR. Oh, no. What I am trying to enforce on the Senate is that I believe in a commission with full power and authority to act—a real commission, not simply an appellate commission.

Mr. FLETCHER. Precisely; I understand the Senator, but still I come back to the original proposition that the measure before the Senate is the report of the Committee on Military Affairs, which proposes a substitute for the House bill, and that report and the bill as reported provides for a commission.

It is a question now for the Senate to decide whether to adopt the substitute to the House bill or not. That is the sole question. Of course, they have a right to amend the substitute, and I take it nobody here is contending in opposition to the adoption of the substitute. I have not heard of any contention.

There is something to be said on the other side of the question if I cared to take the time of the Senate, which I do not, because I realize that this is an urgent matter. It is a matter that ought to be attended to, and we ought to enact this legislation and get it behind us, because there are people in all portions of the country vitally concerned, some of them on the very verge of bankruptcy, as the Senator from Tennessee will recall the testimony before the committee particularly upon that subject, waiting for some adjustment of the differences between them and the War Department, adjustments that are honest, adjustments that are made necessary because the conditions could not be avoided by anybody; in many instances irregular contracts, not the fault of the contractor, not the fault of the department, but irregular, growing out of the very necessities of the conditions and the very urgency of the cases; so no one is to be blamed for that situation. All of a sudden contractors are notified to proceed no further; you are not to go on with your performance. The contractor says, "All right; what will you do about adjusting this case? I have ordered a whole lot of material; I have gone to a great deal of expense; I have incurred obligations; here are men idle on my hands; what are we going to do about it?" Of course, the War Department says, "We will adjust the matter on a fair and equitable basis; come down." They come down and they get together and agree as to what is a fair and equitable basis, and the War Department says, "We will adjust it by paying you so much; are you willing to accept that?" The contractor says, "Yes; all right."

Mr. McKELLAR. Will the Senator yield to me a moment?

Mr. FLETCHER. When they go to settle they find when they offer the adjustment to the comptroller the comptroller says "No; you can not settle that sort of thing because this contractor had no contract under the law and you have no authority to pay it; you can not adjust it." There they are. As I said, it is nobody's fault, but the law is such and the conditions have been such that these situations have arisen, and these losses are pending, and they ought to be adjusted, and they ought not to wait a day about it. I yield to the Senator from Tennessee.

Mr. McKELLAR. I would just like to ask the Senator this question. The Senator heard the testimony of Mr. Rice, of the firm of Myrick & Rice, in dyestuffs. Would the Senator feel that the Government's interest could be properly looked after when Mr. Rice, representing the Government, settled with Myrick & Rice, representing the dyestuffs?

Mr. FLETCHER. No; I would not. I did not read the testimony, but from what the Senator says about it I would not think of that sort of a thing, and I do not think that is contemplated by anybody. I do not think it is contemplated under the House bill, known as the Dent bill.

Mr. McKELLAR. Would he not be one of the men who would act on the board, acting for the Government? He has been acting for the Government in buying all this dyestuff.

Mr. FLETCHER. No; not at all.

Mr. McKELLAR. Does the Senator know whether Mr. Rice is still acting for the Government in this matter?

Mr. FLETCHER. I have no doubt about it.

Mr. McKELLAR. The Senator knows he was acting a short time ago.

Mr. FLETCHER. As one of the adjusters.

Mr. McKELLAR. He is the man who has charge of that division, and he is the one who makes the contracts. If he comes along and makes a settlement with his own concern would the Senator be satisfied with that?

Mr. FLETCHER. I have never said that. Mr. Rice was one of the original board of adjustment. He was one of the parties concerned in making purchases for the Government at the time the purchases were being made; but I do not understand that he is one of this board of adjusters; and he is certainly not on the appeal board of adjustment. That board is composed of Mr. Garnett, of Virginia; Mr. Malone, of New York; and Mr. Lehmann, of New York. That is the board that is now acting in that capacity. None of them are members of the military forces; they are all three of them from civil life. I mean to say that they are not officials of the War Department; they are civilians. I believe there was some talk—and perhaps that was done—a sort of commission being issued to them in order to qualify them in some relation so that they might administer oaths; but they are citizens from civil life. They compose the board that is now acting upon this matter. Mr. Rice is not on it, and Mr. Jones is not on it. Those I have named are the ones that compose that board.

I say this matter ought to be speeded, because of the existing situation. Contractors all over the country have hundreds of thousands of dollars involved. Some contractors have only a small amount involved, but it is a great deal to them, although it be small as compared with the claims of other contractors. These contractors are suffering from the lack of an adjustment which would be fair and honorable and equitable and right, and which everybody would agree should be made. However, there is no power to make it and the object of this regulation is to authorize those adjustments.

The law as it stands is found in section 3744 of the Revised Statutes, showing exactly the requirements to make a contract with the United States Government. If a contract is not made in accordance with that law, it is not a valid contract, and any payments made in pursuance of it or under it, or any adjustment on it is rejected by the comptroller and will not be passed by him. No adjustment, therefore, can be reached. That is the law, and I will ask to have it inserted in the RECORD.

There being no objection, the statute was ordered to be printed in the RECORD, as follows:

SEC. 3744. It shall be the duty of the Secretary of War, of the Secretary of the Navy, and of the Secretary of the Interior, to cause and require every contract made by them severally on behalf of the Government, or by their officers under them appointed to make such contracts, to be reduced to writing, and signed by the contracting parties with their names at the end thereof; a copy of which shall be filed by the officer making and signing the contract in the Returns Office of the Department of the Interior, as soon after the contract is made as possible, and within 30 days, together with all bids, offers, and proposals to him made by persons to obtain the same, and with a copy of any advertisement he may have published inviting bids, offers, or proposals for the same. All the copies and papers in relation to each contract shall be attached together by a ribbon and seal, and marked by numbers in regular order, according to the number of papers composing the whole return.

Mr. CHAMBERLAIN. Mr. President, may I interrupt the Senator?

Mr. FLETCHER. Yes.

Mr. CHAMBERLAIN. Does the Senator understand from the statement which the Senator from Tennessee [Mr. McKELLAR] has made that these three gentlemen—Charles A. Rice, H. L. Bailey, and Malcolm Donald—are on the adjustment boards?

Mr. FLETCHER. I do not.

Mr. CHAMBERLAIN. I rather inferred from the statement of the Senator from Tennessee that these men were on the regional boards; and if so, I think it is quite a serious statement to make.

Mr. McKELLAR. Oh, no; Mr. President, the Senator from Oregon misunderstood me. I said these gentlemen were chiefs of their several divisions.

Mr. FLETCHER. That is a different thing.

Mr. McKELLAR. And had charge of these contracts. Under the committee substitute, which is known as the Chamberlain substitute, primarily officers of the War Department would settle these contracts; and as to the board about which the Senator from Florida [Mr. FLETCHER] is talking, that board only has jurisdiction when the case comes up on appeal. These officers will settle it; and if they can not settle it with themselves, how can they settle it?

Mr. FLETCHER. But they are not on the board at all.

Mr. CHAMBERLAIN. I did not want the Senate to get the impression that these men were on the board or were adjusting these contracts; and the Secretary of War would certainly be

a very foolish business man if he undertook to put them on the board.

Mr. FLETCHER. The Senator is entirely right. So when the Senator from Tennessee asked me the question if I would stand for a settlement made under those circumstances, with this gentleman on the board, I said no; but he is not on the board. He was one of the original agents of the Government in making the purchases, a head of a division, but I do not understand that he is an adjuster of those contracts.

Mr. McKELLAR. Mr. President, will the Senator yield to me?

Mr. FLETCHER. Certainly.

Mr. McKELLAR. As I understand, the War Department's machinery now is that those officers of the War Department who have in charge these contracts attempt to arrive at an adjustment. Suppose there is a legal contract, they will arrive at an adjustment; the War Department follows their recommendation in the matter, and that ends it. The board of which the Senator speaks has nothing in the world to do with it. The question I ask the Senator from Florida is, Is he willing to settle it by these gentlemen?

Mr. FLETCHER. Except that the department arrives at an adjustment in pursuance of such investigation, study, and recommendation as the board may make, I take it.

Mr. McKELLAR. Not at all. It is an appellate board. The testimony disclosed to us that it was an appellate board entirely. For instance, if Mr. Donald, representing the clothing and equipment division, settles with the various firms with which he is connected, that simply goes through as a matter of course, and the settlement is made. The Senator may be satisfied with that kind of a settlement on behalf of the Government, but I am not.

Mr. FLETCHER. Mr. President, there are 8 of these adjustment boards in Washington and 24 of them throughout the country all told. These boards are the boards before whom these claims are presented. They make their recommendation to the Secretary of War. If that recommendation is not satisfactory, then it comes to the board of which Mr. Garnett, Mr. Lehmann, and Mr. Malone are members, and they review it.

Mr. NUGENT. Will the Senator yield to me?

Mr. FLETCHER. Certainly.

Mr. NUGENT. I should like to ask the Senator if he knows the personnel of those committees; if he knows how those committees are made up which are now adjusting these contracts? Are they made up of the gentlemen who made the contracts in the first instance?

Mr. FLETCHER. I think not; not at all. They are designated by the Secretary of War to make the investigations as to the particular matters which are presented in connection with these contracts or quasi-contracts.

Mr. NUGENT. Does the Senator know—

Mr. McKELLAR. If the Senator from Florida will yield to me for a minute, I will say this, which, I think, will probably answer, as well as it can be answered, the question which the Senator from Idaho has asked.

Mr. FLETCHER. I do not think these boards are made up of the chiefs of the divisions that made the contracts.

Mr. McKELLAR. There is not a scintilla of evidence before our committee in reference to who compose the smaller boards. They did not give us the names of the members of the appellate boards who are officers in the Army, and were made officers in the Army purely for the purpose of sitting on appeal.

As to the lower boards, who are on them, who they are, what connection they have with the gentlemen with whom they are doing business, we have no knowledge whatsoever.

Mr. FLETCHER. I do not know their personnel.

Mr. NUGENT. The Senator can not enlighten me with respect to that?

Mr. McKELLAR. It can not be done, because we have not the information.

Mr. FLETCHER. I do not know the personnel of these different boards—8 of them in Washington and 24 of them throughout the country—but I presume we can get their personnel if that is important. I do not understand, however, that the personnel composing those boards is made up of the same persons who made the contracts.

Mr. NUGENT. I should like to know their personnel, I will say to the Senator, before the vote is taken with respect to this matter.

Mr. FLETCHER. I think I can get that information for the Senator.

I have here a letter from Assistant Secretary of War Crowell with regard to Senate bill 5261, which is referred to as the Hitchcock bill. Inasmuch as the Senator from Tennessee [Mr. McKELLAR] based his remarks on a comparison between that

bill and the substitute now pending before the Senate, I think it is worth while to refer to that letter and to have it printed in the Record. I will not take the time to read it; but I think Mr. Crowell mentions that the department has already provided for these boards, although I am not sure that he gives the method of making up the boards or how they are constituted. But the letter does state:

In addition to being utterly unable to do its work, the adjustment board provided by S. 5261 is entirely unnecessary for the reason that the War Department already has established and at work a machinery adequate to handle efficiently and promptly all settlements. Without now going into the details, the department has a central board of contract review in each of the eight supply bureaus in Washington; also a total of 24 local or district boards in various sections of the country making settlements for the Ordnance Department and the former Quartermaster Corps. The department has also established in Washington a board of contract adjustment to which the Secretary of War refers for decision all cases in which the contractor and the contracting officer are unable to agree. Furthermore, several thousand contracting officers, accountants, investigators, and other assistants are now at work helping the boards to make prompt settlements. On the enactment of the legislation which the War Department has requested, this machinery is prepared to start immediately on the cases in which contracts were not made or signed as provided by law.

That is the machinery that is now in operation. I do not know whether it is necessary to go further into detail as to how it is constituted than that or to set out the names of all of the officers who are connected with it. I am quite sure that the machinery is ample to arrive at an honorable and a fair adjustment of these matters and to assure to the Government that there is no fraud being committed as against the Government. I will ask to have Mr. Crowell's letter inserted in the Record.

The VICE PRESIDENT. Without objection, it is so ordered.

The letter referred to is as follows:

WAR DEPARTMENT,
Washington, January 6, 1919.

HQD. DUNCAN U. FLETCHER,
United States Senate.

MY DEAR SENATOR: I am glad to avail myself of your suggestion that I submit to you a statement with reference to S. 5261, known as the Hitchcock bill.

This bill provides for the establishment of an adjustment commission of three members who shall decide all cases of cancellation of existing valid contracts or orders of the War Department, and also all cases in which a contract was not made or signed as provided by law.

The War Department is strongly convinced that the enactment of this bill would cause great and unjustifiable delay in settling the proper claims of contractors and would most unjustly throw hundreds of contractors into bankruptcy.

It would first be necessary for the President to appoint the members of the commission. The Senate must then confirm the appointments. Thereafter the board must organize and familiarize itself with its duties. If regional boards of examiners are appointed, their membership must be selected and their machinery started.

These various steps will necessarily take time. After they have been performed the board will find itself confronted with a situation which will absolutely prevent prompt settlements. This situation will result both from the magnitude of the task and from the almost total lack of assistance provided for the board in the bill.

Incomplete figures show that the total number of settlements which would come before the board would exceed 25,000. That this is an impossible task for three men in one year is, of course, obvious.

Your attention is invited to the fact that the entire appropriation provided by the bill is only \$50,000; that \$35,000 of this amount will be used to pay the salaries of the three members of the board and the secretary; and that only \$15,000 will be left for the accountants, investigators, clerical assistance, and office expenses of the central board and the entire expenses of all such boards of examiners as may be appointed. Comment on the utter inadequacy of such an appropriation is unnecessary. At the very outset, the board would be choked with work and this condition would become hopelessly more aggravated each succeeding week.

As bearing on the personnel and the expenditures necessary in the determination of large numbers of cases, by prompt and informal methods, your attention is invited to the following illustrations:

(1) The Interstate Commerce Commission consists of nine members. During the year ending October 31, 1917, the commission decided approximately 1,000 formal proceedings and 10,000 informal proceedings, with an organization of approximately 700 employees and an expenditure of \$1,060,000 chargeable to this work. The Hitchcock bill proposes to have three men decide in one year at least twice as many cases on an appropriation less than one-twentieth as large.

(2) The public service commission of New York, second district, a typical State public service commission, decided in 1917 approximately 450 formal proceedings and 1,350 informal proceedings, a total of 1,800 proceedings on an appropriation of approximately \$400,000. The Hitchcock bill proposes to have the adjustment commission decide approximately 20 times as many cases with one-eighth the appropriation and personnel.

In addition to being utterly unable to do its work, the adjustment board provided by S. 5261 is entirely unnecessary for the reason that the War Department already has established and at work a machinery adequate to handle efficiently and promptly all settlements. Without now going into the details, the department has a central board of contract review in each of the 8 supply bureaus in Washington; also a total of 24 local or district boards in various sections of the country making settlements for the Ordnance Department and the former Quartermaster Corps. The department has also established in Washington a board of contract adjustment to which the Secretary of War refers for decision all cases in which the contractor and the contracting officer are unable to agree. Furthermore, several thousand contracting officers, accountants, investigators, and other assistants are now at work helping the boards to make prompt settlements. On the enactment of the legislation which the War Department has re-

quested, this machinery is prepared to start immediately on the cases in which contracts were not made or signed as provided by law.

The War Department feels very earnestly that the good faith of the Government is pledged to a prompt settlement and payment of all just claims of contractors. The department stands fully ready to make such settlements and is already doing so where the contracts were made and signed as provided by law.

The Dent bill, as amended by the House Committee on Military Affairs, will meet the requirements of the situation if amended in a few further respects as suggested by the War Department and will enable the department to utilize its existing boards and its existing personnel to make prompt settlements of all formal and informal contracts.

Very sincerely,

BENEDICT CROWELL,
The Assistant Secretary of War.

Mr. FLETCHER. Mr. President, I have not any serious objection to this commission. The only thing I am fearful about is that it will delay matters. I believe that the War Department is perfectly capable of dealing with this whole situation if Congress will simply say that certain contracts which ought to have been formally executed and would in the ordinary course of events have been formally executed are valid contracts. If Congress will simply give the authority provided in two sections, I believe, as I have said, that the department will adjust these matters in such a way as to bring relief to the contractors who have undertaken to serve the Government in its hour of need, and to bring it speedily; whereas if we add to that some sort of commission to review what the department does, we will create a condition which will inevitably mean uncertainty and delay. The contractors are not in a position where they can endure that hardship. They have suffered enough already; there has been enough delay already, and, indeed, there has already been too much.

What will it mean, for instance, if we have to wait here until the President names three members who are to constitute the proposed commission? We have had some experience in that direction. We know that whenever the President is authorized to make an appointment it does not come here the next day or the next week. Sometimes it takes several weeks and sometimes several months for the name to come in. The President has difficulty in finding men to fill these responsible positions, and an appointment on this commission is a responsible position, a position that calls for \$7,500 a year as compensation.

That is another thing that is made necessary by this bill. It is proposed to spend \$50,000 a year, in my judgment, wholly without any necessity at all. It is necessary to set up a court with clerks and stenographers and records, and all that sort of thing—a regular court machinery.

Mr. HITCHCOCK. That is also in the committee bill.

Mr. FLETCHER. I know it is, but I am totally opposed to it. I am opposed to that provision in both bills. I am opposed to the creation of a commission, but I am not going to delay the bill by making any great contest about it. I take it as being the best thing for us to do in order to get some action on this legislation, for other members of the committee seem to be against me on that idea. It is true that both bills—the bill of the Senator from Nebraska [Mr. HITCHCOCK] and the bill now offered as a substitute—provide for a commission, but I repeat I think it is a useless thing, an expensive thing, a costly thing for everybody concerned, to the Government as well as to the contractors, because it means delay. It will be weeks and weeks before we get the three names before the Senate, and then they must be confirmed by the Senate. Both the bills provide for that, and that may take several weeks. We do not know how long. And then after they are appointed and confirmed by the Senate and begin the work they have got to establish their headquarters, their apartments, and organize their forces for conducting this inquiry. So we are going to have claims pending before that court until most of us in this Chamber have passed away, and we will never hear the end of them. It seems to me an absurd thing to establish a court here to deal with these matters which ought to be adjusted without any delay at all and without all of this expensive machinery.

If we provide this commission, we are establishing a fifth wheel to the coach, for we have the Court of Claims anyway without this provision, which may be resorted to where there is a valid contract, and when we make valid contracts that are now irregular we open the way so that any contractor can secure justice, even though he has to bring suit finally in the Court of Claims. But here it is proposed to establish another court ahead of the Court of Claims. We already have the War Department and the whole machinery of that department, with all of its boards, and a final appeal to the Secretary of War himself.

Then, after that, it is proposed to create a commission before which the contractors may go. They can thrash out the matter before the commission, with years and years of delay and detail in connection with proceedings there, and then, after the com-

mission has rendered a decision, they can go to the Court of Claims. When will we reach an end to these matters that are in dispute between citizens who have endeavored to serve the Government and the Government itself? I think it is a useless and expensive piece of machinery that ought to be eliminated from this bill.

Furthermore, coupled with the proposal to establish a court is a provision that it shall be composed of men, according to the very language of the bill, who are pledged to look after particular interests on that commission. One is to represent the War Department, the other is to represent the Department of Justice, and the other is to represent the contractors, I presume; "the business interests of the country," the bill says. In other words, we are creating a court composed of three members, every member of which must go there pledged to look after some particular interest. That is a ridiculous kind of court to create. It is not a court of justice. A court of justice ought to be absolutely free and unhampered to deal with the facts, the law, and the justice of the controversy, and not be composed of partisans, as this bill specifies they must be. It is proposed to create a court of justice to pass upon the claims and to constitute that court of men appointed for the very reason that, respectively, they represent specially, particularly, and peculiarly, conflicting interests.

That is another objectionable feature of it; but, as I have said, I am not going to take up more time in discussing the commission idea. I think it is absurd and ought to be eliminated from the bill, and I may offer an amendment to that effect before we get through with it. However, I would rather have the bill passed even with the unnecessary, useless, and expensive provision with respect to this commission than not to have it at all. I want to see the legislation enacted promptly. It ought to have been enacted before this time. It is a pity to have had all this delay about it. There are citizens who have rights, whose rights the department recognizes, and who are suffering daily by reason of the technicalities obtaining which prevent the settlement with them now. They ought to be settled with, and they can be settled with, and I am in hopes that most of them will be settled with without any appeal to this extraordinary commission.

I think there are safeguards thrown around the whole matter by provisions of the bill which protect the Government in every way, although I do not think that anybody is contemplating robbing the Government. I think it is undisputed—the authorities themselves admit it is undisputed—that there are contractors who are entitled to the adjustment and settlement of their rights and their just claims, but they can not get them as the law now stands. This bill opens the way for them to get what is due them. The danger would be rather that the department would be strict with them rather than that the department would not be strict enough. I fail utterly to see that there is any necessity for a commission. It merely puts upon the Government an additional expense, and it is going to cause inevitably serious delay and thereby hardship where there is no occasion for it. As I have said, I think that very likely before we are through I shall offer an amendment to strike out the provision for the commission, but I am not going to delay action on this bill by insisting strongly on it or taking up time discussing it further. I desired, however, to mention these facts in connection with the matter, and to urge, as I have said, speedy action upon the bill, in order that we may afford the relief that ought to be afforded and which those whom it will affect are entitled to receive.

Mr. SMOOT. Mr. President, on January 23 the administrative committee of the American Bankers' Association adopted a resolution in relation to a provision in this bill, which I wish to take just a moment to read into the Record, and when the proper time comes I desire to discuss it to some extent. The resolution is as follows:

Resolved, That the American Bankers' Association earnestly urge the passage by the Senate of H. R. 13274, as reported by Mr. CHAMBERLAIN on January 20, with an amendment, subject, however, to the important modification that wherever the right of appeal therein is given to the Department of Justice such right be eliminated.

A provision of this nature places upon the Department of Justice a duty to investigate all contracts or orders now pending validation, adjustment, and final settlement, and will cause a serious and unnecessary delay, to the great detriment of business, and will cause a great financial loss to customers of banks and seriously interfere with the employment of labor.

We believe that there are adequate laws existing to protect the Government in the payment of contracts when validated, and that section 2 of the bill in question protects the Government in the validation of informal contracts and the completion of contracts to replace informal orders and agreements.

At the proper time, Mr. President, I may offer an amendment to the amendment reported by the committee, although at this time I do not care to do so.

From what has been said this afternoon by members of the committee, it seems to me that this bill ought to be guarded a little more carefully in certain particulars than it is; but if there is to be any relief whatever granted to the business interests of this country, let us have early action and let us perfect the bill so that there can not be criticisms against the Government such as have been referred to here to-day. I am rather surprised at what has been said upon the floor of the Senate, and yet I presume if we went into an investigation of all of the departments of the Government we would find that some unheard-of, unthought-of actions have been taken at a time when the demand was pressing, when the question of money counted nothing, and when the main consideration was the question of time. I can not conceive, Mr. President, how the conditions related here to-day can be justified or defended.

To my mind the department itself ought to have taken those matters in hand immediately, and they ought to have been rectified long ago. I have no doubt that there must be some legislation granting relief to the men who have furnished materials to the Government and who in many cases abandoned their regular business to do so, and who have not only all of their capital invested in producing the materials furnished to the Government in time of war but a great deal more. I think the chairman of the committee well said that unless some relief is granted, and that quickly, there are a great many institutions in this country which are going to be driven to the wall financially.

Mr. HITCHCOCK. Mr. President, as I understand the situation, we have before us a bill of the House of Representatives for which the committee has submitted a substitute. I desire to inquire of the Chair whether it is now in order to offer an amendment to perfect the House bill before the substitute is voted on?

The VICE PRESIDENT. It is.

Mr. HITCHCOCK. Then, Mr. President, I offer the amendment which I send to the desk, which I ask to have printed so that the Members of the Senate may have it to-morrow.

The VICE PRESIDENT. Without objection, it is so ordered.

Mr. CHAMBERLAIN. Mr. President, I rise to a parliamentary inquiry. The bill as reported by the Senate Committee on Military Affairs is an amendment to the House bill proposing to strike out all after the enacting clause, and to insert.

The VICE PRESIDENT. That comes under Rule XVIII, which was adopted for the very purpose of avoiding what was known as amendments in the third degree. That rule makes the House bill one question and the Senate committee amendment another question, and each is subject to amendment, under the rule the part to be stricken out having precedence in the matter of amendment.

Mr. CHAMBERLAIN. Then when the amendment comes up to which the Senator from Nebraska just called attention, will that be voted on first or will we vote on the committee amendment first?

The VICE PRESIDENT. If the amendment of the Senator from Nebraska is an amendment to amend the House bill, it must be voted on first.

Mr. CHAMBERLAIN. I rather think that the Senator's amendment is practically a substitute for the House bill. Is it not, I will ask the Senator?

Mr. HITCHCOCK. I think the suspicions of the Senator from Oregon are pretty well founded, but I believe that technically I am within the rules of the Senate.

Mr. CHAMBERLAIN. Then, Mr. President, I confess to my ignorance of parliamentary law.

The VICE PRESIDENT. The Chair is of this opinion: The Chair has been sitting here this afternoon, and has heard incidentally, on the side, what was attempted to be done. The Chair thinks that the Senator from Nebraska has a right to move an amendment as in lieu of the amendment offered by the committee; and the Chair thinks, also, that amendments may be offered to the amendment of the Senator from Nebraska. While the Chair has not seen it, from what the Secretary tells the Chair the Chair does not believe it is an amendment of the part that was stricken out at all. It is in lieu of that. The Secretary says, however, that the Senator does save part of the House text.

Mr. SMOOT. He has the right, however, to perfect it.

The VICE PRESIDENT. Oh, yes; the Senator has a perfect right to do that.

Mr. HITCHCOCK. Mr. President, in addition to having the amendment printed, I should like to have it printed in the Record. I make that request.

The VICE PRESIDENT. Is there any objection? The Chair hears none.

Mr. SMOOT. Why not have it read?

Mr. HITCHCOCK. I am perfectly willing to have it read, although I have suggested to the Senator in charge of the bill that we could not make any more progress to-night, and that we ought to have an executive session.

Mr. FRELINGHUYSEN. May I ask the Senator when we will be able to get copies of his amendment?

Mr. HITCHCOCK. The amendment will be on the desk of Senators to-morrow morning.

The amendment of Mr. HITCHCOCK is as follows:

In line 3, page 1, after the word "That," strike out all down to and including line 24, page 3, and insert the following:

"Where during the present war and prior to November 12, 1918, officers or agents acting under authority of the Secretary of War have placed orders or made contracts with manufacturers or contractors for war supplies or materials, or for the performance of work thereon, or for the construction or enlargement of plants or other preparations necessary to furnish supplies or materials for the War Department, the procurement of which has heretofore been authorized by Congress, and any of said orders or contracts has been partly or wholly performed, or expense has been incurred by the manufacturer or contractor prior to the 12th day of November, 1918, in preparation or partial execution of said contract or order, the fact that any such contract or order or agreement has not been made in the form or signed in the manner required by law shall not invalidate the same if it was entered into in good faith and lacked only the sanction of a contract in legal form. Nothing herein provided, however, shall be held to validate any contract, order, or agreement given or made by an officer or agent of the War Department not legally qualified or authorized to give a formal legal contract, except where such officer has signed as the representative of a superior officer authorized to make such contract, nor to permit an officer to make such contract with any company, corporation, or firm in which he has, or had at the time, directly or indirectly, any interest.

"Sec. 2. That in all cases as above included it shall be lawful to make payments under the terms of the contracts or orders so made or given to the extent that performance thereof has been made, expenditures incurred, or supplies thereunder have heretofore been received and accepted by the United States, provided that payment in such cases shall not exceed the fair value of the supplies or materials delivered to and accepted by the United States, together with remuneration for expenditure properly incurred in preparing to perform said contract, orders, or agreements.

"Sec. 3. That in case of the cancellation, suspension, or annulment of any contract, order or agreement as described in this act, by the Secretary of War, or officers or agents acting by his authority, and in cases where no property or supplies have been delivered to and accepted by the United States, or where only partial delivery and acceptance has been made, contractors shall file with the Secretary of War within 60 days after the passage of this act any claim for remuneration arising out of the discontinuance, cancellation, or suspension of such contract, agreement, or order, properly itemized and set forth. Each claim shall thereupon, or as soon as possible, be transmitted to and filed with the commission hereinafter provided for, together with a statement attached thereto, showing the amount, if any, which the War Department deems to be justly due to said claimant. If the claimant shall file a statement offering to accept the amount awarded by the War Department in full for said claim, the commission shall, within 10 days, order the same paid in the absence of evidence that it is excessive.

"Sec. 4. That for the adjustment of all claims arising out of the cancellation of contracts, orders, and agreements for supplies or materials of war, as described in the foregoing paragraphs of this act, there is hereby created an adjustment commission to be composed of three members, to be appointed by the President and confirmed by the Senate, one representing the War Department, one representing the Department of Justice, and one representing the business interests of the country, none of whom shall be interested in any contracts with the Government or have an interest in any firm or corporation having war contracts, who shall hold their offices for one year and receive as compensation a salary of \$10,000 each. It shall be the duty of said commission promptly to examine and pass upon all claims for compensation and reimbursement arising out of cases as set forth in this act for supplies furnished, expenditures or obligations necessarily incurred, or materials purchased under faith of contracts in legal form or orders received from officers and agents of the Secretary of War as heretofore set forth.

"Sec. 5. That in each case, as soon as the commission has made an award, the contractor shall be entitled to receive the same upon giving receipt in full of all demands against the United States arising out of the transaction, or if the contractor is not satisfied with the amount so awarded he shall be entitled to receive, and shall receive at once, 75 per cent of the amount that has been awarded him, and he shall thereupon be entitled to appeal the case to the Court of Claims, which is hereby given jurisdiction to hear the case and render final judgment in such sum as may be required to reimburse the contractor for supplies and materials delivered to and accepted by the United States and expenditure necessarily incurred in good faith in the partial performance of the contract or order above referred to, or in preparing for the same.

"Sec. 6. That in no case, however, shall any award, either by the commission or the Court of Claims, include prospective or possible profits on any part of the contract beyond the goods and supplies delivered to and accepted by the United States and a remuneration for expenditures necessarily incurred in preparing to perform said contract or order so canceled.

"Sec. 7. That the purpose of this act being to secure prompt settlement of claims, the commission is authorized to make its own rules and regulations and to hear and determine the issues informally and promptly upon presentation of the case. The commission is authorized to appoint, under such rules and regulations as it shall prescribe, one or more regional boards of examiners to serve in such districts throughout the country as the commission shall fix and determine to investigate and determine the facts concerning claims, legal or equitable, that may be presented as herein prescribed. The members of such board shall be composed of one representative of the War Department, one representative of the Department of Justice, and one from the business interests of the region, none of whom shall have any interest in the contract, directly or indirectly, and receive no compensation, save and except such per diem compensation as shall be fixed by the commission. Whenever the commission shall refer to any such regional board of examiners any claim they shall proceed informally to hear the parties,

take the proofs, and return the same promptly to the commission with their recommendation thereon.

"SEC. 8. That the sum of \$50,000, or so much thereof as may be necessary, is hereby appropriated, out of any money in the Treasury not otherwise appropriated, for the reasonable expenses of said commission, to be paid out upon the warrant of the chairman, who shall be chosen by the commission from among their own members, and approved by the secretary, who may be selected by the commission, and who shall receive a salary of not exceeding \$5,000 for the period of one year, or so much thereof as may be necessary, to be determined by the commission."

Amend the title so as to read: "A bill to legalize informal or defective orders for war supplies and materials; to provide for the cancellation of orders and contracts, for the reimbursement of contractors and manufacturers, for the adjustment of claims on canceled contracts or orders, to provide for the partial payment of awards pending final determination, and for the creation of an adjustment commission."

WASHINGTON'S FAREWELL ADDRESS.

The VICE PRESIDENT. In accordance with the order of the Senate heretofore made, directing the reading of the Farewell Address of George Washington upon the 22d day of February, immediately following the reading of the Journal, the Chair appoints for that purpose this year the Senator from New Jersey [Mr. FRELINGHUYSEN].

EXECUTIVE SESSION.

Mr. MARTIN of Virginia. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to, and the Senate proceeded to the consideration of executive business. After 25 minutes spent in executive session the doors were reopened.

DEATH OF REPRESENTATIVE ROBBINS.

Mr. PENROSE. Mr. President, I ask that the resolutions received from the House of Representatives on the death of Hon. EDWARD EVERETT ROBBINS, late a Representative from the State of Pennsylvania, be laid before the Senate.

The VICE PRESIDENT. The Chair lays before the Senate the resolutions from the House of Representatives, which will be read.

The Secretary read the resolutions as follows:

IN THE HOUSE OF REPRESENTATIVES, January 25, 1919.

Resolved, That the House has heard with profound sorrow of the death of the Hon. EDWARD EVERETT ROBBINS, a Representative from the State of Pennsylvania.

Resolved, That a committee of 34 Members of the House, with such Members of the Senate as may be joined, be appointed to attend the funeral.

Resolved, That the Sergeant at Arms of the House be authorized and directed to take such steps as may be necessary for carrying out the provisions of these resolutions, and that the necessary expenses in connection therewith be paid out of the contingent fund of the House.

Resolved, That the Clerk communicate these resolutions to the Senate and transmit a copy thereof to the family of the deceased.

Resolved, That as a further mark of respect this House do now adjourn.

Mr. PENROSE. Mr. President, I offer the following resolutions, which I send to the desk and ask for their adoption.

The resolutions (S. Res. 430) were read, considered by unanimous consent, and unanimously agreed to, as follows:

Resolved, That the Senate has heard with profound sorrow the announcement of the death of the Hon. EDWARD EVERETT ROBBINS, late a Representative from the State of Pennsylvania.

Resolved, That a committee of seven Senators be appointed by the Vice President to join the committee appointed on the part of the House of Representatives, to attend the funeral of the deceased.

Resolved, That the Secretary communicate a copy of these resolutions to the House of Representatives.

The VICE PRESIDENT, under the second resolution, appointed Mr. PENROSE, Mr. KING, Mr. OVERMAN, Mr. WATSON, Mr. BAIRD, Mr. THOMPSON, and Mr. KNOX the committee on the part of the Senate.

Mr. PENROSE. Mr. President, I move as a further mark of respect to the memory of the deceased Representative that the Senate do now adjourn.

The motion was unanimously agreed to; and (at 4 o'clock and 55 minutes p. m.) the Senate adjourned until to-morrow, January 28, 1919, at 12 o'clock meridian.

NOMINATIONS.

Executive nominations received by the Senate January 27, 1919.

APPOINTMENTS IN THE NAVY.

To be ensigns for temporary service.

Jack G. Scott,
Lawrence V. Smith,
Harold E. Aul,
Edwin J. Simons,
Roger K. Hodsdon,
Wilbur J. Schoepfle,
Robert T. Lattin,
Charles A. Harrison,
Edward A. Pedersen,
James R. Bagshaw, jr.,

Arthur R. Curry,
Cecil G. Cooley,
Frank V. Herdman,
Leslie V. Winchester,
William C. Wroe,
Robert C. Saunders, jr.,
Frank E. Goeckler,
Albert L. Struven,
Bascom H. Thomas,
Willard W. Wright,
Arthur T. Leonard,
Perry B. Sample,
William F. Evans,
Alfred G. Scott,
Cellan A. Hendee,
Kenneth E. Bryant,
Philip H. Smith,
Edwin E. Valentine,
Leon W. Dunbar,
Richard W. Reep,
Edgar V. Carrithers,
Elliott S. Hastings,
James P. Carroll,
Howard L. Clark,
Rodney H. Dobson,
Eldridge W. Reese,
Clinton H. Beckwith,
Terence W. Greene,
Ernest O. Arnold,
William N. Thornton,
Joseph G. Brearley,
Oliver F. Green,
Rudolph J. Anderson,
Thomas J. Spellman,
William H. Terrey,
Edgar A. Self,
Theodore J. Olson,
Lannis A. Parker,
Waldorf B. Brown,
Carl H. Taylor,
David E. Tell,
Herman B. Thompson,
Harold W. Skillman,
Leo W. Baker,
Harry S. Ford,
Robert G. Strong,
Aloysius D. Keller,
Ernest V. Abrams,
Wallace H. Collins,
Ivan L. Kingsley,
Frank P. Doheny,
Alzamora B. Smith,
Leroy S. Miller,
Ralph A. Schuyler,
John E. Walrath,
Frank W. Thunberg,
Frank A. Zimbelman,
John L. Landfair,
David J. Nolin,
Alexander N. Crowder,
Robert L. Rundle,
Charles M. Steele,
William B. Collier,
Clyde R. Kennedy,
Frank M. Andrews,
Joseph S. Fogerty,
James C. Knowles,
Edward L. Sheldon,
James J. Horeau,
Walter E. Peterson,
William T. Ryan,
Foster B. Crutcher,
Charles H. Engelhard,
James H. Joyce,
Irving Thurston,
Charles C. Babcock,
Richard T. Harte,
Ernest M. Moore,
David T. Sanders,
John A. Gee,
Otis Howard,
John A. Scoville,
Verne L. Sullivan,
Merton J. Wakefield,
Lyle H. Gallivan,

Elias M. Doar,
 Michael L. Long,
 Ernest H. Morris,
 Arthur S. Davis,
 Jesse H. Gwin,
 Fred C. Stevens,
 William E. Heaton,
 Burton E. Rokes,
 Lawrence Doty,
 Frank O. Parker,
 Lloyd K. Cleveland,
 John B. Smith,
 Luther Dannecker,
 Joseph W. Scheer,
 Moseley C. Collins,
 Jacob J. Harris,
 Carl F. Dilger,
 Andrew J. Herold,
 Floyd D. James,
 James C. Thomas,
 Donald R. Comstock,
 Edward B. McLee,
 Robert H. Reece,
 Bryant I. Smith,
 Chester W. Williams,
 Raymond St. C. Beckel,
 Eli G. Braley,
 Franklin Morrette,
 Raymond C. Hall,
 Charles A. Stender,
 Maurice P. Condrick,
 Joseph A. Pierce,
 Arthur W. Bates,
 Glen C. Barnaby,
 Edward C. Campbell,
 James H. Gregory,
 Seymour H. Sutton,
 John J. Foley,
 Daniel J. Sullivan, jr.,
 Rollo L. Faubion,
 Charles O. Michael,
 John F. O'Hagan,
 Richard E. Hawes,
 Irving J. Stephenson,
 Stanley B. Covert,
 Clarence W. Johnson,
 Harold F. Hale,
 Edward C. Holden, jr.,
 Lloyd W. Brown,
 George S. Curtis,
 Andrew M. Parks,
 Oscar Alfred,
 George F. Freeman,
 Andrew M. Harvey,
 Julian E. Tobey,
 Ernest R. Zabriskie,
 Edward A. Coady,
 Raymond W. Fuchs,
 Stanley H. Southwell,
 Fred P. Gerhardt,
 Edwin L. Gasaway,
 Harold DeW. Hoffman,
 Burt W. Harvey,
 James F. K. Wilcox,
 John L. Mickle,
 Clarence L. Nicholson,
 Joseph T. Collins, and
 Stanley W. Curtis.

CONFIRMATIONS.

Executive nominations confirmed by the Senate January 27, 1919.

UNITED STATES DISTRICT JUDGE.

Hugh M. Morris to be United States district judge, district of Delaware.

UNITED STATES ATTORNEYS.

Samuel K. Dennis to be United States attorney, district of Maryland.

Erle Pettus to be United States attorney, northern district of Alabama.

Hiram M. Smith to be United States attorney, eastern district of Virginia.

UNITED STATES MARSHAL.

William W. Stockham to be United States marshal, district of Maryland.

APPOINTMENTS IN THE ARMY.

GENERAL OFFICERS.

To be major general.

Lieut. Gen. Robert L. Bullard.

To be brigadier general.

Maj. Gen. George W. Read.
 Maj. Gen. Charles H. Muir.
 Maj. Gen. Charles T. Menoher.
 Maj. Gen. James W. McAndrew.
 Maj. Gen. William G. Haan.
 Maj. Gen. James G. Harbord.
 Maj. Gen. John L. Hines.
 Maj. Gen. Charles P. Summerall.

FIELD ARTILLERY ARM.

To be second lieutenant.

Cadet George Brooke McReynolds.

PROMOTIONS IN THE ARMY.

CORPS OF ENGINEERS.

To be captains.

First Lieut. Girard B. Troland.
 First Lieut. Llewellyn M. Griffith.

PROVISIONAL APPOINTMENTS, BY PROMOTION, IN THE ARMY.

CORPS OF ENGINEERS.

To be captain.

First Lieut. Simon Medine.

To be first lieutenants.

Second Lieut. Roland Jens.
 Second Lieut. William E. Thrasher.
 Second Lieut. George W. Coffey.
 Second Lieut. George O. Consoer.

COAST ARTILLERY CORPS.

To be first lieutenant.

Second Lieut. Charles S. Harris.

FIELD ARTILLERY ARM.

To be captains.

First Lieut. Francis Fielding-Reid.
 First Lieut. Harold H. Ristine.
 First Lieut. Oscar L. Gruhn.

To be first lieutenants.

Second Lieut. Dennis P. McCarthy.
 Second Lieut. Albert Tate.
 Second Lieut. Le Count H. Slocum.
 Second Lieut. John H. Shelton.

CAVALRY ARM.

To be first lieutenant.

Second Lieut. Gilbert X. Cheves.

INFANTRY.

To be captains.

First Lieut. Augustine J. Zerbe.
 First Lieut. Frank A. Heileman.
 First Lieut. Lauritz D. Simonson.
 First Lieut. Carl R. Perkins.
 First Lieut. Franklin W. Cheney.
 First Lieut. George F. Wellage.
 First Lieut. Alfred F. Biles, jr.
 First Lieut. Charles T. Hearin.
 First Lieut. John F. Fredin, jr.
 First Lieut. James B. Wise, jr.
 First Lieut. Clarence M. Culp.
 First Lieut. Robert D. Horton.
 First Lieut. Charles B. Kehoe.

To be first lieutenants.

Second Lieut. Harrison B. Beavers.
 Second Lieut. Elbridge Colby.
 Second Lieut. Allan H. Snowden.
 Second Lieut. Herbert D. Gibson.
 Second Lieut. Goulding K. Wight.
 Second Lieut. Harry S. Wilbur.
 Second Lieut. Albert S. Johnson.
 Second Lieut. Clarence O. Black.
 Second Lieut. Paul B. Robinson.
 Second Lieut. William L. Coulter.
 Second Lieut. Glen E. McCarthy.
 Second Lieut. Joseph H. Hinwood, jr.
 Second Lieut. Russell F. Walthour, jr.
 Second Lieut. James C. De Long.

Second Lieut. Joseph P. Lawlor.
 Second Lieut. Timothy A. Pedley, jr.
 Second Lieut. Charles N. Owen.
 Second Lieut. Charles R. Gideon.
 Second Lieut. Archie MacI. Palmer.
 Second Lieut. Jack B. Chadwick.
 Second Lieut. John R. Bair.
 Second Lieut. James S. Varnell.
 Second Lieut. Arthur F. Dahlberg.
 Second Lieut. Russell C. Chapman.
 Second Lieut. Edwin T. Bowden.

PROVISIONAL APPOINTMENTS, BY TRANSFER, IN THE ARMY.

COAST ARTILLERY CORPS.

First Lieut. LeRoy Lutes, Infantry, to be first lieutenant,
 Coast Artillery Corps.

INFANTRY ARM.

First Lieut. Richard B. Gayle, Coast Artillery Corps, to be
 first lieutenant, Infantry.

PROMOTIONS AND APPOINTMENTS IN THE NAVY.

Medical Inspector James C. Pryor to be a medical director
 with the rank of captain.

Pay Inspector Joseph J. Cheatham to be a pay director with
 the rank of captain.

Paymaster James C. Hilton to be a pay inspector with the
 rank of commander.

Lieut. Henry M. Jensen to be a lieutenant commander.

Midshipman John C. Williams to be an ensign.

APPOINTMENTS IN THE NAVY.

To be ensigns, for temporary service.

Jack Garrett Scott,
 Lawrence Victor Smith,
 Harold Edward Aul,
 Edwin Jaggard Simons,
 Roger King Hodsdon,
 Wilbur John Schoepfle,
 Robert Thomas Lattin,
 Charles Allison Harrison,
 Edward Albion Pedersen,
 James Robinson Bagshaw, jr.,
 Arthur Reginald Curry,
 Cecil George Cooley,
 Frank Victor Herdman,
 Leslie Victor Winchester,
 William Clarke Wroe,
 Robert Chancellor Saunders, jr.,
 Frank Edward Goeckler,
 Albert Louis Struven,
 Bascom Henry Thomas,
 Millard Wyldre Wright,
 Arthur Thomas Leonard,
 Perry Bernard Sample,
 William Fennell Evans,
 Alfred George Scott,
 Cellan Abner Hendee,
 Kenneth Eugene Bryant,
 Philip Harold Smith,
 Edwin Ernest Valentine,
 Leon Winfield Dunbar,
 Richard Wesley Reep,
 Edgar Verne Carrithers,
 Elliott Sheldon Hastings,
 James Patrick Carroll,
 Howard Lionel Clark,
 Rodney Hiram Dobson,
 Eldridge Wiley Reese,
 Clinton Henry Beckwith,
 Terence Warner Greene,
 Ernest Osborn Arnold,
 William Nelson Thornton,
 Jos. Gillingham Brearley,
 Oliver Francis Green,
 Rudolph James Anderson,
 Thomas Joseph Spellman,
 William Homer Terrey,
 Edgar Alfred Self,
 Theodore Julian Olson,
 Lannis Alvin Parker,
 Waldorf Barnett Brown,
 Carl Herbert Taylor,
 David Eugene Tell,
 Herman Bernard Thompson,
 Harold Williamson Skillman,
 Leo Walter Baker,

Harry Stanley Ford,
 Robert Galbraith Strong,
 Aloysius Deony Keller,
 Ernest Valentine Abrams,
 Wallace Hardison Collins,
 Ivan Lawrence Kingsley,
 Frank Patrick Doheny,
 Alzamora Bordette Smith,
 Leroy Scovell Miller,
 Ralph Alexander Schuyler,
 John Eli Walrath,
 Frank William Thunberg,
 Frank Arthur Zimbelman,
 John Lysle Landfair,
 David Joseph Nolin,
 Alexander Norman Crowder,
 Robert Lloyd Rundle,
 Charles Messinger Steele,
 William Bryan Collier,
 Clyde Raymond Kennedy,
 Frank Monroe Andrews,
 Joseph Samuel Fogerty,
 James Carroll Knowles,
 Edward LeRoy Sheldon,
 James Joseph Horeau,
 Walter Edward Peterson,
 William Thomas Ryan,
 Foster Brandenburg Crutcher,
 Charles Howard Engelhard,
 James Henry Joyce,
 Irving Thurston,
 Charles Chester Babcock,
 Richard Trenton Harte,
 Ernest Monroe Moore,
 David Tilden Sanders,
 John Archer Gee,
 Otis Howard,
 John Allan Scoville,
 Verne Leslie Sullivan,
 Merton Jeffrey Wakefield,
 Lyle Hugo Gallivan,
 Elias Marion Doar,
 Michael Luke Long,
 Ernest Henderson Morris,
 Arthur Shenk Davis,
 Jesse Heath Gwin,
 Fred Clayton Stevens,
 William Everett Heaton,
 Burton Emery Rokes,
 Lawrence Doty,
 Frank Orville Parker,
 Lloyd Kenneth Cleveland,
 John Bernard Smith,
 Luther Dannecker,
 Joseph William Scheer,
 Moseley Cary Collins,
 Jacob John Harris,
 Carl Francis Dilger,
 Andrew Jackson Herold,
 Floyd Dixie James,
 James Clifton Thomas,
 Donald Remer Comstock,
 Edward Brown McLee,
 Robert Howell Reece,
 Bryany Ingham Smith,
 Chester Waring Williams,
 Raymond St. Clair Beckel,
 Eli Clifford Braley,
 Franklin Morrette,
 Raymond Charles Hall,
 Charles Adolph Stender,
 Maurice P. Condrick,
 Joseph Alfred Pierce,
 Arthur Warner Bates,
 Glen Charles Barnaby,
 Edward Cleveland Campbell,
 James Henry Gregory,
 Seymour Hawse Sutton,
 John Joseph Foley,
 Daniel James Sullivan, jr.,
 Rollo Lindsey Faubion,
 Charles Otto Michael,
 John Francis O'Hagan,
 Richard Ellington Hawes,
 Irving Joseph Stephenson,

Stanley Burton Covert,
 Clarence William Johnson,
 Harold Francis Hale,
 Edward Clarence Holden, Jr.,
 Loyd William Brown,
 George Stephen Curtis,
 Andrew Mack Parks,
 Oscar Allred,
 George Foster Freeman,
 Andrew Milton Harvey,
 Julian Elnathan Tobey,
 Ernest Rodger Zabriskie,
 Edward Arthur Condy,
 Raymond William Fuchs,
 Standly Hodges Southwell,
 Fred Peter Gerhardt,
 Edwin Lee Gasaway,
 Harold De Witt Hoffman,
 Burt William Harvey,
 James Frank Keller Wilcox,
 John Lewis Mickle,
 Clarence Leroy Nicholson,
 Joseph Tasse Collins, and
 Stanley Walter Curtis.

POSTMASTERS.

COLORADO.

Vivian Sadler, Cheyenne Wells.
 Dwight Cline, La Salle.
 Edward M. Robinson, Wray.

DELAWARE.

James J. English, Wilmington.

INDIANA.

Nathan W. Ringo, Dugger.
 Earle A. Smith, Gosport.
 Fred H. Foster, Oxford.

MISSOURI.

Charles B. Neville, Lawson.

NEBRASKA.

Joseph Fenimore, Merna.

OKLAHOMA.

Baker B. Woodward, Bokoshe.
 Hattie E. Malloy, Laverne.
 James G. Sprouse, McCurtain.
 Irving O. Diggs, Stillwater.
 Walter A. Thompson, Tahlequah.
 Vernon B. Ellington, Wagoner.
 Claud Hannon, Wirt.

SOUTH DAKOTA.

Claud I. Force, Clear Lake.

TENNESSEE.

Jessie R. Alexander, Mountpleasant.
 Arch W. Ashton, Hohenwald.
 Benjamin W. Scott, Bradford.
 Robert L. Long, Church Hill.
 Dudley D. Edgemon, Englewood.
 Franklin W. Latta, Dyersburg.
 Enos O. Thomas, Camden.
 William H. Howard, Milan.
 Lucille Morris, Tiptonville.

HOUSE OF REPRESENTATIVES.

MONDAY, January 27, 1919.

The House met at 11 o'clock a. m.

The Chaplain, Rev. Henry N. Couden, D. D., offered the following prayer:

Almighty God, our heavenly Father, help us to do Thy will this day. If we are in darkness, give us light. If we are weak, make us strong. If we wander from the paths of rectitude and duty, call us back; that we may be the instruments, in Thy hands, for the promotion of Thy kingdom upon the earth. In Jesus Christ our Lord. Amen.

The Journal of the proceedings of Saturday, January 25, and of Sunday, January 26, 1919, was read and approved.

DEFICIENCY APPROPRIATIONS.

Mr. SHERLEY. Mr. Speaker, I am directed by the Committee on Appropriations to report (No. 989) the second deficiency bill, for printing under the rules.

The SPEAKER. The gentleman from Kentucky reports a deficiency bill, which the Clerk will report by title.

The Clerk read as follows:

A bill (H. R. 15140) making appropriations to supply deficiencies in appropriations for the fiscal year ending June 30, 1919, and prior fiscal years, and for other purposes.

Mr. STAFFORD. Mr. Speaker, I reserve all points of order.

The SPEAKER. The bill is ordered printed and referred to the Committee of the Whole House on the state of the Union.

EXTENSION OF REMARKS.

Mr. HERSEY. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD on the life and public services of the late Gen. Joseph S. Smith, of my State, to-day buried at Arlington, with military honors.

The SPEAKER. The gentleman from Maine asks unanimous consent to extend his remarks in the RECORD on the life and public services of the late Gen. Joseph S. Smith. Is there objection?

Mr. WALSH. Mr. Speaker, reserving the right to object, I should like to ask the gentleman if the late Joseph S. Smith was a former Member of this body?

Mr. HERSEY. He was not. He has been the general manager since the late Civil War of two soldiers' homes of this Nation, and he had distinguished military service.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none.

Mr. SHERWOOD. Mr. Speaker, I ask unanimous consent to print a letter from an old soldier, consisting of 20 lines, from the Battle Mountain Sanitarium.

The SPEAKER. The gentleman from Ohio asks unanimous consent to print in the RECORD a letter of 20 lines from an old soldier at the Battle Mountain Sanitarium. Is there objection? [After a pause.] The Chair hears none.

The following is the letter referred to:

NATIONAL HOME FOR DISABLED VOLUNTEER SOLDIERS,
 BATTLE MOUNTAIN SANITARIUM,
 Hot Springs, S. Dak., January 23, 1919.

From: The Battle Mountain boys.
 To: Gen. I. R. SHERWOOD, M. C., Washington, D. C.
 Subject: Gratitude.

MY DEAR FRIEND AND NEIGHBOR: I desire on my own account and in behalf of 300 members of Battle Mountain Sanitarium to express our heartfelt gratitude for your success with others in blocking the Gandy bill.

Wish you could have seen the joy expressed by the boys to-day when the Omaha Bee came, with an account of the defeat of the bill, with the names of all who were active in blocking it, and your name was mentioned as one. This did me much good, as I told the boys that I was sure that you would be there in our interest when the time came. So many who are here have tried to live in other places, but on account of this climate they return and say there is no other place that agrees with them, and the treatment does them the good that they get here. And for this and other reasons I am asked to write you in behalf of all the boys and thank you for this and the many good things that you have done for us boys.

We all join in wishing you health and years of active life.

Very truly, yours,

THREE HUNDRED MEMBERS OF R. M. S.,
 By SOL. FARBAUGH.

Mr. BLANTON. Mr. Speaker, I ask unanimous consent to have read a very short letter from the Pension Commissioner, and desire to make a request concerning the same.

The SPEAKER. Without objection, the letter will be read.

Mr. WALSH. Mr. Speaker, reserving the right to object—

Mr. GARD. A parliamentary inquiry, Mr. Speaker—

Mr. BLANTON. If the gentleman will see the substance of it I do not think he will object.

The SPEAKER. It is not a question for debate. The gentleman asked that a letter be read, and he put the motion that it be read.

Mr. WALSH. The Chair said that without objection the letter would be read.

The SPEAKER. That is what the Chair meant. Is there anybody objecting?

Mr. WALSH. I reserved the right to object and asked the topic on which the letter was written.

Mr. BLANTON. Several days ago—

Mr. WALSH. I would like to know what the letter is.

Mr. BLANTON. Several days ago I had printed in the RECORD a report of a special committee of the Pension Bureau concerning the act of March 4, 1917, which showed—

Mr. WALSH. The letter is about a pension law?

Mr. BLANTON. Indian pensions. It showed the parties in certain commands who were entitled to pensions and those who were not. The commissioner has written a letter stating he would like to have 100 copies of that document for answering inquiries in case it should be printed as a House document. I wanted that letter read as a basis for the request that it be printed as a House document.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none. The Clerk will read.